SENATE—*Thursday, September 26, 1974*

The Senate met at 12 o'clock noon and was called to order by Hon. WILLIAM D. HATHAWAY, a Senator from the State of Maine.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

O God our Father, who dost speak to us in quietness, come to us not in the quietness of indifference or inactivity but in the stillness of creativity and calm confidence. Steady our spirits that we may concentrate all our powers of insight and thought upon the baffling problems of our day. And when the way is uncertain, shed Thy light upon our pathway. Fill our hearts with the truth, discipline our minds, strengthen our wills in righteousness, and grant us the power to match great needs with great deeds.

In the name of our Lord and Master we pray. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. EASTLAND).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., September 26, 1974.

To the Senate:

Being temporarily absent from the Senate on official duties, I appoint Hon. WILLIAM D. HATHAWAY, a Senator from the State of Maine, to perform the duties of the Chair during my absence.

JAMES O. EASTLAND,
President pro tempore.

Mr. HATHAWAY thereupon took the chair as Acting President pro tempore.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Wednesday, September 25, 1974, be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

COMMITTEE MEETINGS DURING SENATE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that all committees may be authorized to meet during the session of the Senate today.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER TO POSTPONE SENATE RESOLUTION 410 UNTIL TUESDAY NEXT

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the resolution submitted by the Senator from Ohio (Mr. METZENBAUM), Senate Resolution 410, a resolution in support of efforts of President Ford in seeking world economic stability between oil-producing and consumer nations, which the Senate agreed to postpone until Monday, be postponed until Tuesday next.

The ACTING PRESIDENT pro tempore. Is there objection? The Chair hears none, and it is so ordered.

EXECUTIVE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider nominations on the Executive Calendar.

There being no objection, the Senate proceeded to the consideration of executive business.

The ACTING PRESIDENT pro tempore. The nominations on the Executive Calendar will be stated.

FEDERAL TRADE COMMISSION

The legislative clerk read the nomination of Paul Rand Dixon, of Tennessee, to be a Federal Trade Commissioner.

The ACTING PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed.

NOMINATIONS PLACED ON THE SECRETARY'S DESK—NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

The legislative clerk proceeded to read sundry nominations in the National Oceanic and Atmospheric Administration.

The ACTING PRESIDENT pro tempore. Without objection, the nominations are considered and confirmed en bloc.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the President be notified of the confirmation of the nominations.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

CONSULAR CONVENTION BETWEEN THE UNITED STATES OF AMERICA AND THE CZECHOSLOVAK SOCIALIST REPUBLIC

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 4, Executive A (93d Cong., 2d sess.), that the matter be carried to final reading, but that it not be voted on today.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The Senate, as in Committee of the Whole, proceeded to consider Executive A, 93d Congress, 2d session, the Consular Convention between the Government of the United States and the Government of the Czechoslovak Socialist Republic, along with the agreed memorandum and related exchange of notes, signed at Prague on July 9, 1973, which was read the second time, as follows:

EXECUTIVE A

CONSULAR CONVENTION BETWEEN THE UNITED STATES OF AMERICA AND THE CZECHOSLOVAK SOCIALIST REPUBLIC

The United States of America and the Czechoslovak Socialist Republic:

Wishing to regulate the relations in the consular field between the two States and thus to facilitate the protection of their national interests and the protection of the interests and rights of their nationals;

Have decided to conclude this Consular Convention and have appointed as their Plenipotentiaries for this purpose:

For the United States of America:
WILLIAM P. ROGERS, *Secretary of State.*
For the Czechoslovak Socialist Republic:
ING. BOHUSLAV CHNOUPEK,
Minister of Foreign Affairs.

Who, having communicated to each other their respective full powers, which were found in good and due form, have agreed as follows:

PART I

Definitions

Article 1

For purposes of this Convention the terms listed below shall have the following meanings:

(*a*) "consulate" is any consulate-general, consulate, vice-consulate or consular agency;

(*b*) "consular district" is the area assigned to the consulate for the performance of consular duties;

(*c*) "head of a consulate" is any person charged by the sending State with the performance of duties connected with this position;

(*d*) "consular officer" is any person, including the head of a consulate, who has been charged with the performance of consular duties;

(*e*) "consular employee" is any person employed to perform administrative, technical or other services of a consulate;

(*f*) "members of a consulate" are consular officers and consular employees;

(*g*) "consular premises" are buildings or parts of buildings and land connected thereto, used exclusively for the purposes of a consulate, irrespective of ownership;

(*h*) "consular archives" includes all official papers, documents, correspondence, books, films, recording tapes and registers of a consulate, together with ciphers and codes, card files and any equipment used for their protection and storage;

(*i*) "vessel of the sending State" is any vessel sailing under the flag of the sending State excluding warships;

(*j*) "members of the family" are the spouse, minor children and other relatives of a consular officer or a consular employee, who reside with him as a part of his household.

PART II

Establishment of consulates and appointment of consular officers and consular employees

Article 2

1. A consulate may be established in the territory of the receiving State only with the consent of that State.

2. The seat of the consulate and the limits of the consular district shall be determined by agreement between the sending and receiving States.

Article 3

1. The sending State shall request in advance through diplomatic channels the consent of the receiving State to the appointment of a head of the consulate.

2. After such consent has been obtained, the diplomatic mission of the sending State

shall transmit to the Ministry of Foreign Affairs of the receiving State the consular commission or other document of appointment. The consular commission or other document of appointment shall specify the full name of the head of the consulate, his nationality, his class, the seat of the consulate and the consular district.

3. Upon the presentation of the consular commission or other document of appointment of a head of the consulate, the exequatur or other authorization shall be granted as soon as possible by the receiving State.

4. The head of a consulate may enter upon the performance of his duties upon the presentation of the consular commission or other document of appointment and upon the granting by the receiving State of the exequatur or other authorization.

5. As soon as an exequatur or other authorization has been granted in conformity with this Article, the appropriate authorities of the receiving State shall take all necessary measures to ensure that the head of a consulate is enabled to enter upon the performance of his duties and is accorded the right, facilities, privileges and immunities due to him under this Convention and the law of the receiving State.

Article 4

Pending the granting of an exequatur or other authorization, the receiving State may grant the head of a consulate a provisional authorization for the performance of consular duties.

Article 5

A consular officer shall be a national of the sending State and shall not be a national or a permanent resident of the receiving State.

Article 6

1. The sending State shall, in advance, notify the receiving State in writing of the full name, nationality, rank and class of each consular officer appointed to a consulate.

2. The sending State also shall, in advance, notify the receiving State in writing of the full name, nationality and function of a consular employee appointed to a consulate.

Article 7

1. The sending State may, in conformity with Articles 3, 5 and 6, charge one or more members of its diplomatic mission in the receiving State with the performance of consular functions. A member of the diplomatic mission charged with the performance of consular functions shall continue to enjoy the privileges and immunities to which he is entitled as a member of the diplomatic mission.

2. A consular department, charged with the performance of consular functions, may be established by the sending State at its diplomatic mission.

Article 8

The receiving State shall issue to each consular officer a document certifying his right to perform consular functions in the territory of the receiving State.

Article 9

The receiving State shall afford its protection to a consular officer and shall take all appropriate measures to prevent any attack on his person, freedom or dignity, and shall take all necessary measures to ensure that he is enabled to perform his duties and is accorded the rights, facilities, privileges and immunities due to him under this Convention.

Article 10

1. If the head of the consulate is unable for any reason to carry out his functions or if the position of the head of the consulate is temporarily vacant, the sending State may appoint a consular officer belonging to the same consulate or to another consulate of the sending State in the receiving State or a member of the diplomatic staff of its diplomatic mission in that State to act as temporary head of the consulate. The full name of the person concerned shall be notified in advance and in writing to the Ministry of Foreign Affairs of the receiving State.

2. A person acting temporarily as head of a consulate shall be entitled to perform all functions of a head of a consulate and to enjoy all rights, facilities, privileges and immunities as a head of a consulate appointed under Article 3.

3. A member of the diplomatic staff of the diplomatic mission, temporarily acting as head of a consulate, shall continue to enjoy the privileges and immunities accorded to him by virtue of his diplomatic status.

Article 11

1. The receiving State may, at any time and without having to explain the reason for its decision, notify the sending State through diplomatic channels that a consular officer is persona non grata or that a consular employee is unacceptable.

The sending State shall thereupon recall the person concerned.

2. If the sending State fails to carry out its obligations under paragraph 1 within a reasonable period of time, the receiving State may decline to continue to recognize such person as a member of the consulate.

Article 12

1. The sending State may, to the extent that it is permitted under the law of the receiving State, acquire by ownership, lease, or any other form of tenure which may exist under that law, land, buildings or parts of buildings for the purposes of the consulate or residences for the members of the consulate, provided that the person concerned is not a national or a permanent resident of the receiving State.

2. The receiving State shall provide to the sending State all assistance necessary to facilitate the acquisition of land, buildings or parts of buildings for the purposes mentioned under paragraph 1.

3. Nothing in paragraph 1 or paragraph 2 of this Article shall be construed to exempt the sending State from compliance with the building, planning, zoning and other similar regulations or restrictions of the receiving State in connection with construction or alteration of buildings or parts of buildings in the receiving State.

PART III

Rights, facilities, privileges and immunities

Article 13

1. The coat of arms of the sending State together with an inscription designating the consulate in the language of the sending State and of the receiving State may be affixed to the buildings in which the offices of a consulate are located as well as to the building which is the residence of the head of a consulate.

2. The flag of the sending State may be flown on the buildings in which the offices of a consulate are located and also at the residence of the head of a consulate and on his means of transport used for official duties.

Article 14

The consular premises and the residence of the head of the consulate shall be inviolable. The authorities of the receiving State may enter the consular premises or the residence of the head of the consulate only with the consent of the head of the consulate or the head of the diplomatic mission of the sending State or by a person designated by one of them.

Article 15

The consular archives shall be inviolable at all times and wherever they may be. Documents and objects of an unofficial character shall not be kept in the archives.

Article 16

1. A consulate shall be entitled to exchange communications with its Government, with the diplomatic missions of the sending State and with other consulates of the sending State wherever they may be. For this purpose the consulate may employ all suitable means of communication, including diplomatic and consular couriers, diplomatic and consular bags and codes or ciphers. A wireless transmitter may be installed only with the consent of the receiving State.

2. With respect to public means of communication the same conditions shall be applied in the case of a consulate as are applied in the case of the diplomatic mission.

3. The official correspondence of a consulate and courier containers and bags shall, provided that they bear visible external marks of their official character, be inviolable and may not be examined or detained. They may contain only official correspondence and articles intended for official use.

4. A consular courier shall be provided with an official document indicating his position and specifying the number of containers forming the consular bag. The consular courier shall enjoy the same rights, facilities, privileges and immunities as a diplomatic courier of the sending State.

5. The master of a vessel or the captain of a civil aircraft of the sending State may also be charged with the conveyance of a consular bag. The master or captain shall be provided with an official document indicating the number of containers forming the consular bag entrusted to him; he shall not, however, be considered to be a consular courier. By arrangement with the appropriate authorities of the receiving State, the consulate may send a member of the consulate to take possession of the consular bag directly and freely from the master of the vessel or captain of the aircraft or to deliver such bag to him.

Article 17

1. Consular officers and members of their families, provided that the person concerned is not a national or a permanent resident of the receiving State, shall be immune from the criminal, civil and administrative jurisdiction of the receiving State.

2. Consular employees and members of their families, provided that the person concerned is not a national or a permanent resident of the receiving State, shall be immune from the criminal jurisdiction of that State. They shall also be immune from the civil and administrative jurisdiction of the receiving State with respect to any act performed in their official capacity.

3. Provisions of paragraphs 1 and 2 shall not apply to civil proceedings:

(*a*) resulting from agreements that have not been concluded by the consular officer or consular employee on behalf of the sending State;

(*b*) relating to succession in which the consular officer or consular employee is involved as executor, administrator, heir or legatee as a private person and not on behalf of the sending State;

(*c*) concerning a claim brought by a third party for damage caused in the receiving State by a vessel, vehicle or aircraft;

(*d*) relating to any private or commercial activities engaged in by a consular officer or consular employee in the receiving State outside his official functions;

(*e*) relating to private immovable property in the territory of the receiving State unless the consular officer or consular employee holds it on behalf of the sending State for the purposes of the consulate.

4. The sending State may waive any of the immunities provided for in this Article. The waiver shall be express and shall be communicated in writing to the receiving State.

5. The waiver of immunity from jurisdiction with respect to civil and administrative proceedings shall not be held to imply waiver of immunity with respect to execution of the judgment for which a separate waiver shall be required.

Article 18

1. Members of a consulate may be requested to give evidence as witnesses in judicial or administrative proceedings. If a consular officer declines to give evidence, no coercive measures shall be taken against him. Consular employees are not entitled to decline to give evidence with the exception of the cases referred to in paragraph 3.

2. The appropriate provisions of paragraph 1 pertaining to consular officers and consular employees shall also apply to members of their families.

3. Members of a consulate are entitled to decline to give evidence as witnesses with regard to matters falling within the performance of their official functions or to produce any official document and official correspondence. They are also entitled to decline to give evidence as experts on the law of the sending State, as well as on its application and interpretation.

4. The authorities of the receiving State requesting evidence from consular officers or from consular employees shall take all steps to avoid interference with the performance of their official functions. Where it is possible, the evidence may be given at the consulate or at the residence of the consular officer or consular employee, or it may be given in a written form.

Article 19

Members of a consulate and members of their families, provided that the person concerned is not a national or a permanent resident of the receiving State, shall be exempt in the receiving State from public service and obligations of any kind.

Article 20

Members of a consulate and members of their families, provided that the person concerned is not a national or a permanent resident of the receiving State, shall be exempt from all requirements under the law of the receiving State relative to the registration of aliens, permission to reside and other regulations concerning the residence of aliens.

Article 21

1. The sending State shall be exempt in the receiving State from all taxes, charges and fees with respect to:

(*a*) land, buildings, and parts of buildings acquired in accordance with Article 12 and used for consular purposes or as residences of the members of a consulate, provided that the premises in question are owned or leased in the name of the sending State;

(*b*) transactions and instruments relating to the acquisition of the immovable property referred to in paragraph 1(a) of this Article;

(*c*) the performance of consular functions, including payments for consular services.

2. The sending State shall also be exempt in the receiving State from all taxes, charges and fees with respect to movable property owned, possessed or used by the sending State exclusively for consular purposes.

3. The exemptions provided for in this Article shall not apply to charges and fees for specific services rendered.

Article 22

A member of a consulate and members of his family, provided that the person concerned is not a national or a permanent resident of the receiving State, shall be exempt in the receiving State from taxes and charges with respect to the salary, emoluments, wages and allowances which he receives in connection with the discharge of his official duties.

Article 23

1. A member of a consulate and members of his family, provided that the person concerned is not a national or a permanent resident of the receiving State, shall be exempt in the receiving State from all national, regional and local taxes and charges, including taxes and charges imposed on movable property that he owns.

2. The provisions of paragraph 1 shall not apply with respect to:

(*a*) indirect taxes that are, as a rule, contained in the prices of goods or services;

(*b*) charges and taxes on private immovable property situated within the receiving State unless an exemption is provided under Article 21;

(*c*) taxes on the transfer or instruments effecting the transfer of property, including taxes related to succession, collected by the receiving State;

(*d*) taxes and charges on private income the source of which is situated within the receiving State;

(*e*) court, mortgage and administrative charges, unless an exemption is provided under Article 21;

(*f*) charges collected for specific services rendered.

Article 24

If a member of a consulate or a member of his family dies and leaves movable property in the receiving State, no estate, succession, or inheritance or other tax or charge on the transfer of property at death shall be imposed by the receiving State with respect to that property, provided that the deceased person was not a national or a permanent resident of the receiving State and that the presence of the property in that State was due solely to the presence of the deceased in his capacity as a member of a consulate or as a member of the family of such a member of a consulate.

Article 25

1. All articles, including motor vehicles, imported for the official use of a consulate shall, in conformity with the law of the receiving State, be exempt from all customs duties and all charges imposed upon or by reason of importation to the same extent as if they were imported by the diplomatic mission of the sending State in the receiving State.

2. All articles imported for the personal use of a consular officer and members of his family, including articles for the initial equipment of his household, provided that the person concerned is not a national or a permanent resident of the receiving State, shall be exempt from all customs duties and all charges imposed upon or by reason of their importation. A consular employee shall enjoy the exemptions provided for in this paragraph only with respect to articles imported by him at the time of his first installation at the consulate.

3. The articles designed for personal use shall not exceed the quantity required for direct use by the persons concerned.

4. The personal baggage of consular officers and members of their families, provided that the person concerned is not a national or a permanent resident of the receiving State, shall be exempt from customs inspection. It may be inspected only in cases when there is serious reason to believe that it contains articles other than those stated in paragraph 2 or articles the importation or exportation of which is prohibited by the law of the receiving State or which are subject to its quarantine law. Such an inspection must be undertaken in the presence of the consular officer concerned or a member of his family or a person authorized by the consular officer or a member of his family to represent him.

Article 26

1. All persons to whom the rights, facilities, privileges and immunities are accorded under this Convention shall, without prejudice to the said rights, facilities, privileges and immunities, be under an obligation to respect the law of the receiving State, including law relative to the control of traffic and to the insurance of motor vehicles.

2. All vehicles owned by the sending State and used for the purposes of the consulate and all vehicles belonging to consular officers, consular employees, or members of their families must be adequately insured against third-party risks. In the case of nationals or permanent residents of the receiving State, such insurance shall be obtained as required by the law of the receiving State.

Article 27

Subject to the law concerning zones entry into which is prohibited or regulated for reasons of national security, the receiving State shall ensure freedom of movement and travel in its territory to all members of the consulate.

PART IV

Consular functions

Article 28

1. A consular officer shall be entitled to perform the functions specified in this Part in keeping with the law of the receiving State. He may perform other consular functions only under the provision that they are not contrary to the law of the receiving State.

2. A consular officer shall be entitled to represent, in his consular district and in accordance with the law of the receiving State, the rights and interests of the sending State and of its nationals, both natural and juridical persons.

3. In the exercise of his functions, a consular officer may address directly, in writing as well as orally, and receive direct replies from:

(*a*) the competent local authorities of his consular district;

(*b*) the competent central authorities of the receiving State, to the extent permissible under the laws, regulations and practice of the receiving State.

4. A consular officer shall be entitled, subject to the consent of the receiving State, to perform consular functions also outside his consular district.

Article 29

A consular officer shall further the development of economic, commercial, cultural and scientific contacts between the two States and contribute to the strengthening of mutual friendly relations.

Article 30

1. A consular officer shall be entitled within the consular district:

(*a*) to keep a register of nationals of the sending State;

(*b*) to receive applications and declarations relative to nationality of citizens of the sending State and to issue respective documents;

(*c*) to receive declarations pertaining to the family relationships of a national of the sending State in accordance with the law of that State;

(*d*) to register the births and deaths of nationals of the sending State;

(*e*) to draw, attest, certify, authenticate, legalize or otherwise validate legal acts and documents required by a national of the sending State for use outside the territory of the receiving State or required by any per-

son for use in the sending State, provided that such acts of consular officers are not at variance with the law of the receiving State;

(*f*) to translate legal instruments and documents and to certify the accuracy of the translation, as well as to issue certified copies of these translated documents.

2. It is understood that the registration or the receipt of notification of a birth or death by a consular officer, the recording by a consular officer of a marriage celebrated under the law of the receiving State, or the receipt by a consular officer of declarations pertaining to the family relationship in no way exempts a person from any obligation contained in the law of the receiving State with regard to the notification to or registration with the appropriate authorities of the receiving State of births, deaths, marriages or other matters pertaining to family relationships of a person.

Article 31

Legal acts and documents, issued, translated or certified by a consular officer in accordance with Article 30, paragraph 1, subparagraph (*e*), shall have equal legal effect and evidentiary value in the receiving State as documents issued, translated or certified by the competent authorities of the receiving State, provided such acts and documents have been drawn and executed in a manner not inconsistent with the law of the receiving State.

Article 32

1. A consular officer shall be entitled to issue, extend, amend and revoke travel documents of nationals of the sending State.

2. He shall also be entitled to issue visas to persons wishing to travel to the sending State.

Article 33

A consular officer may, in accordance with the law of the receiving State, recommend to the courts or other competent authorities of the receiving State appropriate persons to act in the capacity of guardians or trustees for nationals of the sending State or for the property of such nationals when this property is left without supervision.

Article 34

1. The competent authorities of the receiving State shall, if they have knowledge and without delay, inform the appropriate consular officer of the death of a national of the sending State in the territory of the receiving State.

2. The competent authorities of the receiving State shall also inform the consular officer, if they have knowledge, of an estate of a national of the sending State or of an estate of a person deceased in the receiving State, without regard to his nationality, which estate may concern a national of the sending State.

3. The competent authorities of the receiving State shall take measures, in cases under paragraph 2 and provided that the estate is situated on the territory of that State, to secure the estate in conformity with the law of the receiving State and, upon his request, shall convey to the appropriate consular officer a copy of the testament, if it had been made, as well as all available information with respect to the heirs, the content and the value of the estate and shall advise him of the date on which probate proceedings will be opened.

4. A consular officer shall be entitled, in accordance with the law of the receiving State, to represent, directly or through a representative, the interests of a national of the sending State who has a claim to the estate situated in the receiving State and who is not a permanent resident of that State, unless or until such national is otherwise represented. However, nothing herein shall authorize a consular officer to act as an attorney at law.

5. A consular officer shall be entitled, in accordance with the law of the receiving State, to receive money or other property on behalf of a national of the sending State who is not a permanent resident of the receiving State, to which the national concerned may be entitled as a consequence of the death of a person, including payments made in pursuance of workmen's compensation laws, within a pension or social security scheme and the proceeds from insurance policies. The law of the receiving State must be applied so as to give full effect to the purposes for which these rights are intended.

6. Movable property and money derived from the liquidation of an estate belonging to a national of the sending State may be handed over to the appropriate consular officer, provided that the claims of creditors with respect to the estate have been settled or secured and that the taxes and charges in respect to the estate have been paid.

7. A consular officer shall be entitled to deal directly with the competent authorities of the receiving State in securing the estate pursuant to this Article.

8. In any case where a national of the sending State who is not a permanent resident of the receiving State dies while temporarily present in that State, money and personal effects in his possession, provided that they are not claimed by a person who is present and entitled to claim them, shall be turned over without delay for provisional custody and for conservatory purposes, to the appropriate consular officer of the sending State. This provision shall be without prejudice to the right of the competent authorities of the receiving State to take charge of them in the interests of justice. If an authority of the receiving State is charged with the administration of the estate of the deceased person, the consulate shall hand over the money and personal effects to said authority. The exportation of the money and personal effects shall be subject to the law of the receiving State.

9. Whenever a consular officer or a member of the diplomatic mission charged with the performance of consular functions shall perform the functions referred to in this Article, he shall be subject, with respect to the exercise of such functions, to the law of the receiving State and to the civil jurisdiction of the judicial and administrative authorities of the receiving State in the same manner and to the same extent as a national of the receiving State.

Article 35

1. A consular officer shall be entitled to represent, in the consular district in accordance with the law of the receiving State, nationals of the sending State before the authorities of the receiving State, if they are unable, for reasons of absence or for other serious reasons, to assume the defense of their rights and interests at the proper time. The representation shall continue until the represented person appoints his representative or assumes himself the defense of his rights and interests.

2. A consular officer shall be entitled, within his consular district, to establish and maintain contact with any national of the sending State, to provide him with counsel and all necessary assistance and, if necessary, to take steps to secure legal assistance for him. The receiving State shall in no way infringe upon the right of a national of the sending State to communicate with his consulate or visit his consulate.

Article 36

1. In all instances when a national of the sending State is placed under any form of deprivation or limitation of personal freedom, the competent authorities of the receiving State shall inform the consulate of the sending State without delay, and, in any event, not later than after three calendar days. Upon request, the consular officer shall be immediately informed of the reason for the national being placed under deprivation or limitation of personal freedom.

2. The competent authorities of the receiving State shall, without delay, inform the national of the sending State of the rights accorded him by this Article to communicate with a consular officer.

3. A consular officer shall be entitled to receive from and send to a national of the sending State who is under any form of deprivation or limitation of personal freedom correspondence or other forms of communication and take appropriate measures to assure him legal assistance and representation.

4. A consular officer shall be entitled to visit a national of the sending State who is under any form of deprivation or limitation of personal freedom, including such national who is in prison, custody or detention in the consular district in pursuance of a judgment, to converse and correspond with him in the language of the sending State or of the receiving State and to arrange for legal representation for him. These visits shall take place as soon as possible but in any event shall not be refused after the lapse of a four-calendar-day period from the date when the national was placed under any form of deprivation or limitation of personal freedom. Visits may be made on a recurring basis but at intervals of not more than one month.

5. In the case of a trial of a national of the sending State in the receiving State, the appropriate authority shall, at the request of a consular officer, inform such officer of the charges against such national and shall permit the consular officer to be present during the trial of such national and any subsequent appeal proceedings.

6. A national to whom the provisions of this Article apply may receive from a consular officer parcels containing food, clothes, medication and reading and writing materials to the extent the applicable regulations of the institution in which he is detained so permit.

7. The rights contained in this Article shall be exercised in conformity with the law of the receiving State, subject to the proviso, however, that the law must be applied so as to give full effect to the purposes for which these rights are intended.

Article 37

1. A consular officer shall be entitled, within the consular district, to render every assistance and aid to a vessel of the sending State which has come to a port or the coastal or inland waters of the receiving State, as well as to its crew and passengers.

2. A consular officer may invoke the aid of the competent authorities of the receiving State in any matter relating to the performance of his duties with respect to a vessel of the sending State or members of the crew or the passengers of such a vessel.

3. A consular officer may proceed on board of the vessel as soon as it has been given permission to establish contact with the shore. Members of the crew may immediately establish contact with the consular officer.

4. A consular officer shall be entitled within the consular district:

(*a*) to investigate, without prejudice to the rights of the authorities of the receiving State, any incident occurring on board a vessel, question any member of the crew, examine the vessel's papers, take statements with regard to its voyage and destination

and generally facilitate the vessel's entry into, stay in and departure from a port;

(*b*) without prejudice to the rights of the authorities of the receiving State, to settle disputes between the master and any member of the crew, including disputes as to wages and contracts of service, to the extent that this is permitted under the law of the sending State;

(*c*) to make arrangements for medical treatment for or the repatriation of any member of the crew or any passenger of the vessel;

(d) to receive, draw up or certify declarations or other documents prescribed by the law of the sending State in connection with vessels.

Article 38

1. If the competent authorities of the receiving State intend to take any coercive action or to institute any formal inquiry on board a vessel of the sending State, they shall so inform the appropriate consular officer through the competent authorities of the receiving State. Except in cases when such notification is impossible because of the need to take immediate action on the matter, it shall be made in time to enable the consular officer or his representative to be present. If the consular officer or his representative has not been present, the competent authorities of the receiving State shall provide the consular officer with full information with regard to what has taken place.

2. The provisions of paragraph 1 shall also apply in any case in which the competent authorities of the port area intend to question members of the crew ashore.

The provisions of this Article shall not, however, apply to any routine examination by the competent authorities with regard to customs, immigration or public health nor to any acton taken at the request or with the consent of the master of the vessel.

Article 39

1. If a vessel of the sending State is wrecked, runs aground, is swept ashore or otherwise sustains damage in the receiving State or if any article forming part of the cargo of a wrecked vessel of the sending, receiving or a third State, being the property of a national of the sending State, is found on the coast or in the inland or territorial waters of the receiving State as an article swept ashore or is brought into a port of that State, the competent authorities of the receiving State shall as soon as possible notify the consular officer accordingly. They shall also inform him of measures already taken for the preservation of the lives of persons on board the vessel, the vessel, the cargo and other property on board, as well as of articles belonging to the vessel or forming part of her cargo which have become separated from the vessel.

2. The consular officer may render every assistance to such vessel, her passengers and members of her crew. For this purpose he may invoke the assistance of the competent authorities of the receiving State. The consular officer may take the measures described in paragraph 1 as well as measures for the repair of the vessel, or request the competent authorities of the receiving State to take, or continue to take, such measures.

3. If the master or the owner or the underwriter of the vessel or other person who represents the interests of a vessel described in paragraph 1 is unable to make necessary arrangements in connection with the vessel or its cargo, a consular officer may make such arrangements on his behalf. A consular officer may under similar circumstances take appropriate steps with regard to cargo and other property owned by the sending State or the nationals thereof, which belongs to a wrecked or damaged vessel which is registered in a state other than the sending State, except when the vessel is under the flag of the receiving State.

4. No customs duties shall be levied against a damaged vessel of the sending State or its cargo or stores unless they are delivered for use in the receiving State.

Article 40

The provisions of Articles 37, 38 and 39 shall, to the extent feasible, apply also in relation to aircraft, provided that the application of these Articles is not contrary to the provisions of any agreements in force between the sending State and the receiving State.

Article 41

A consulate shall be entitled to levy in the receiving State the fees and charges prescribed under the law of the sending State for consular services.

PART V

Final provisions

Article 42

1. This Convention shall be subject to ratification and shall enter into force on the thirtieth day following the date of the exchange of instruments of ratification which shall take place in Washington, D.C.

2. This Convention shall remain in force until the expiry of six months from the date on which one of the High Contracting Parties shall have given the other High Contracting Party a written notice of its intention to terminate the Convention.

IN WITNESS WHEREOF, the respective plenipotentiaries of the two High Contracting Parties have signed this Convention and affixed thereto their seals.

Done at Prague on this 9th day of July, 1973, in two original copies in the English and Czech languages, both texts being equally authoritative.

For the United States of America:
WILLIAM P. ROGERS.
For the Czechoslovak Socialist Republic:
ING. BOHUSLAV CHNOUPEK.

Agreed memorandum

In connection with the signing today of the Consular Convention between the United States of America and the Czechoslovak Socialist Republic, it has been agreed by both Parties to record the discussion carried out during the negotiation of the Convention with respect to the meaning of the terms "law" and "pravni predpisy" as they are used in its various provisions.

The head of the delegation of the United States of America explained that, from the United States viewpoint, the term "law" includes all relevant national, state and local laws, ordinances, regulations, resolutions and similar provisions having the force and effect of law, including determinations of courts and other judicial agencies.

The head of the Czechoslovak delegation explained that, from the Czechoslovak viewpoint, the expression "pravni predpisy" encompasses all laws and other norms which are legally binding.

Done at Prague this 9th day of July, 1973.
For the United States of America:
WILLIAM P. ROGERS.
For the Czechoslovak Socialist Republic:
ING. BOHUSLAV CHNOUPEK.

PRAGUE, *July 9, 1973.*

His Excellency, ING. BOHUSLAV CHNOUPEK,
Minister of Foreign Affairs of the Czechoslovak Socialist Republic.

EXCELLENCY: I have the honor to refer to the Consular Convention between the United States of America and the Czechoslovak Socialist Republic signed today and to confirm that both parties have agreed to the following provisions with respect to the implementation of that Convention:

1. Persons entering the Czechoslovak Socialist Republic for temporary visits on the basis of United States passports containing valid Czechoslovak entry visas will, during the period for which temporary visitor status has been accorded, in accordance with the visa's validity, be considered United States nationals by the appropriate Czechoslovak authorities for the purpose of insuring the consular protection provided for in the Convention signed today, as well as the right of departure from the Czechoslovak Socialist Republic without further documentation, regardless of whether such persons may also be regarded as citizens of the Czechoslovak Socialist Republic.

2. Persons entering the United States of America for temporary visits on the basis of passports of the Czechoslovak Socialist Republic containing valid United States entry visas will, during the period for which temporary visitor status has been accorded, be considered Czechoslovak citizens by the appropriate authorities of the United States of America for the purpose of insuring the consular protection provided for in the Convention signed today, as well as the right of departure without further documentation, regardless of whether such persons may also be regarded as nationals of the United States of America.

3. With reference to the provisions of paragraphs 1 and 2 above, it is understood that passports of the United States of America are issued only to persons considered by the Government of the United States of America as nationals of the United States of America. It is further understood that passports of the Czechoslovak Socialist Republic are issued only to persons considered by the Government of the Czechoslovak Socialist Republic as citizens of the Czechoslovak Socialist Republic.

4. The persons mentioned in paragraphs 1 and 2 above shall not lose the right of consular protection or the right of departure without further documentation if the period for which temporary visitor status has been accorded to these persons has expired during the course of judicial or administrative proceedings which prevent their voluntary departure.

5. The above agreement is not intended to modify or affect the obligations incurred by both Governments under the Treaty of Naturalization signed at Prague on July 16, 1928.

I avail myself of this opportunity to renew to Your Excellency the assurances of my highest consideration.

WILLIAM P. ROGERS,
Secretary of State.

I, the undersigned consular officer of the United States of America, duly commissioned and qualified, do hereby certify that the foregoing is a true and faithful copy of the original this day exhibited to me, the same having been carefully examined by me and compared with the said original and found to agree therewith word for word and figure for figure.

IN WITNESS WHEREOF I have set my hand and affixed the seal of the American Embassy at Prague, Czechoslovakia, this ninth day of July, 1973.

ROBERT D. JOHNSON,
Consul of the United States of America.

Mr. MANSFIELD. Mr. President, presently there is no bilateral consular convention between the United States and the Czechoslovak Socialist Republic. The purpose of this convention is to improve and broaden the bilateral relationship between the two countries and to facilitate the ability of American and Czechoslovak consuls to extend assistance to

their fellow citizens. By so doing, it is expected that the convention will contribute to the growth of travel and commercial contracts between the two nations.

The Consular Convention between the United States of America and the Czechoslovak Socialist Republic, along with the agreed memorandum and related exchange of notes, was signed at Prague on July 9, 1973. It is one of several consular conventions which have been negotiated in recent years in an effort to improve relations with various countries, particularly those of Eastern Europe. The convention's provisions follow the pattern of those signed with Poland, Romania, and Hungary which entered into force July 6, 1973.

The specific consular functions and services which will be assured on a reciprocal basis include the issuance of passports and visas, performance of notarial services, and representation of the interests of the sending state in estate matters. Most significantly, article 36 of the convention assures that consuls, whose nationals are detained or have their personal freedom limited in any way, will be notified within three days and will have the right to visit and communicate with them and see that they receive legal assistance and representation. Visits by consular officers will be permitted as soon as possible and may not be refused after four calendar days from the date of detention or other limitation of personal freedom.

The convention will enter into force 30 days after instruments of ratification are exchanged in Washington, D.C., and shall remain in effect until the expiration of 6 months from the date on which one of the contracting parties gives notice of intent to terminate the convention. According to the Department of State, the ratification process has been completed by Czechoslovakia.

COMMITTEE ACTION AND RECOMMENDATION

The Committee on Foreign Relations held a public hearing on the Consular Convention with Czechoslovakia on September 11, 1974, at which time Mr. Horace F. Shamwell, Jr., acting assistant legal adviser for Management of the Department of State, testified in support of the convention.

The committee considered the Consular Convention in executive session immediately after the public hearing and, by voice vote and without dissent, ordered it reported out with the recommendation that the Senate advise and consent to its ratification.

Mr. HUGH SCOTT. Mr. President, reserving the right to object—and I shall not object—I do this simply to note that I favor the treaty. If the majority leader has no objection, I ask unanimous consent that if compelled to be absent on Monday at an energy and conservation conference in Philadelphia, I may be excused as on official business.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. HARRY F. BYRD, JR. Mr. President, reserving the right to object—and I shall not object—I should like to ask the majority leader this question: I assume that this treaty does not go into the matter of the confiscation of American property and the holding of Czechoslovakian gold by the United States?

Mr. MANSFIELD. No, it does not. The matter was reported unanimously by the Committee on Foreign Relations.

Mr. HARRY F. BYRD, JR. I thank the Senator.

The ACTING PRESIDENT pro tempore. If there be no objection, the Executive A will be considered as having passed through its various parliamentary stages up to and including the presentation of the resolution of ratification. The resolution of ratification of Executive A will now be read.

The resolution of ratification of Executive A was read, as follows:

Resolved (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the Consular Convention between the Government of the United States of America and the Government of the Czechoslovak Socialist Republic, along with the agreed memorandum and related exchange of notes, signed at Prague on July 9, 1973.

Mr. ROBERT C. BYRD subsequently said: Mr. President, as in executive session, I ask unanimous consent that the vote on Executive A (93d Con., 2d sess.), the Consular Convention with the Czechoslovak Socialist Republic, occur at the hour of 3:30 p.m., on Monday next.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. That will be a rollcall vote, Mr. President, although the yeas and nays have not been ordered on it. They will be ordered later.

LEGISLATIVE SESSION

Mr. HUGH SCOTT. Mr. President, I ask unanimous consent that the Senate resume the consideration of legislative business.

There being no objection, the Senate resumed the consideration of legislative business.

AUTHORIZATION FOR THE SECRETARY OF THE TREASURY TO CHANGE THE ALLOY AND WEIGHT OF THE 1-CENT PIECE AND TO AMEND THE BANK HOLDING ACT AMENDMENTS OF 1970 TO AUTHORIZE GRANTS TO EISENHOWER COLLEGE, SENECA FALLS, N.Y.

Mr. HUGH SCOTT. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on H.R. 16032.

The ACTING PRESIDENT pro tempore laid before the Senate H.R. 16032, to authorize the Secretary of the Treasury to change the alloy and weight of the 1-cent piece and to amend the Bank Holding Act Amendments of 1970 to authorize grants to Eisenhower College, Seneca Falls, N.Y., which was read twice by its title.

Mr. HUGH SCOTT. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of the bill.

The ACTING PRESIDENT pro tempore. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. HUGH SCOTT. Mr. President, this bill undertakes to lighten the weight of the penny. We hate to see come true what occurs to me in the following two lines:

A penny saved is a penny earned;
A penny lightened is a penny spurned.

The bill was ordered to a third reading, was read the third time, and passed.

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Michigan (Mr. GRIFFIN) is recognized for not to exceed 15 minutes.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that I may be recognized under the order allotted to me, without prejudice to Mr. GRIFFIN.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

MANSFIELD OF MONTANA

Mr. ROBERT C. BYRD. Mr. President, the October issue of the Saturday Evening Post contains an article by Paul Healy, entitled "Mansfield of Montana."

Partially through Mr. Healy's observations, and partially from the distinguished majority leader's own quoted words, the article draws a picture of the man as we who serve with him in the U.S. Senate know him, respect him, and revere him.

William Shakespeare, in his play "Henry VIII," wrote the line:

He was a scholar, and a ripe and good one;
Exceeding wise, fair-spoken, and persuading. . .

Anyone who reads the Saturday Evening Post profile of Mr. MANSFIELD will agree, I am sure, that those lines might well have been written to describe the senior Senator from Montana.

I recommend the article to my colleagues. It will not apprise them of anything that they do not already know about the majority leader, but it will serve to reinforce in us the already very high regard in which we hold the majority leader for his qualities as a human being, as well as for his outstanding qualities as the leader of this venerable body.

I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

MANSFIELD OF MONTANA—THE SENATE MAJORITY LEADER IS HEWN FROM BEDROCK AMERICA

(By Paul Healy)

(NOTE.—Paul F. Healy has been the top White House correspondent for the New York

Daily News since the Kennedy administration and written extensively about White House affairs. Past articles for the Post have included pieces on Lyndon B. Johnson, Richard M. Nixon, John F. Kennedy, and Barry Goldwater. His most recent article, "Sunday Afternoon With the Ronald Reagans," was in the April 1974 issue.)

When I called on Senator Mike Mansfield for an in-depth interview, I had no idea how long he would put up with me. Mansfield is known in the news media as the "fastest gun in the West" (and East, South, or Midwest, for that matter). On televised panel shows, he snaps off answers so quickly that reporters sometimes run out of questions before the program time is up. Like a fellow Montanan, the late Gary Cooper, the senator favors monosyllabic replies, such as a "Yep," a "Nope," a "Can't say," or a "Don't know." He never evades, digresses, amplifies, or filibusters.

An additional obstacle in my path was the fact that—again unlike most other politicians—Mansfield dislikes personal publicity and does not even have a press secretary.

On the quiet Saturday morning of our interview, however, he looked content and amiable as he welcomed me from behind his desk in the Old Senate Office Building. He was, for Mansfield, sportily attired—corduroy trousers and pin-striped shirt open at the neck and with sleeves rolled up. His necktie was draped over a nearby briefcase and his ubiquitous pipe was in his hand.

Mansfield is in his fourteenth consecutive year as Senate Majority Leader, an unsung record in U.S. history. I asked if this made him feel tired.

"Yeah," he agreed with a rueful smile. The leadership today is a heavy burden. And Montanans are writing him more than ever—not about Watergate or foreign crises but about such closer-to-home concerns as veterans' pensions and taxes.

Mansfield accepted the leadership post reluctantly in January, 1961, only after special urging from President-elect John Kennedy. Some observers thought that "Mike is too nice a guy" to step into the hot spot where Lyndon Johnson had performed like a ringmaster before becoming Vice-President. As Democratic Whip, Mansfield had been nominally number two in his party in the Senate but he had languished in the shadow of LBJ's one-man show.

Mansfield was, and is, extremely popular with his colleagues but there are those who wish he resembled St. Michael the Archangel more than St. Francis of Assisi. To be sure, he is modest and mild-mannered, with a face as ascetic as an El Greco painting—plain and bony, with a high forehead and a thin, firm mouth. Mansfield, however, detests the sainthood quips, according to an associate. After all, he does—on rare occasions—take a drink, cuss and get angry.

I asked him if the years had changed his original views on how to "lead" a collection of rugged individualists.

"Not at all," he replied quickly. "My philosophy lies in giving recognition that they are senators, and not shoving anything down their throats. I think the Senate's record of the past thirteen or fourteen years will stack up against any period in the history of the republic.

"Johnson and I were quite different. I don't believe in putting pressure on a member. I ask him to give the leadership the benefit of the doubt if he can see our point of view. If I got a Senator to switch through pressure tactics, he might do it, but he wouldn't like it, and he might not do it a second time. It's a long-range view. Animosities will not develop, and senators will be senators."

He added, with a reflective pull on his pipe, "Even if I had not served under Johnson, I would feel the same. You have to be yourself."

Mansfield has been Majority Leader now more than double LBJ's six years. I asked him if, in fourteen years, he had ever put the pressures on for a senator's vote.

"I wouldn't know how, wouldn't be good at it, and the Senate would pay the price in the long run," he shot back.

He continued slowly: "I think the best way to operate in a body of your peers is to work for what can be achieved by logic, persuasion, and accommodation."

Mansfield stressed that he and Senate Republican leader Hugh Scott realizes that "as leaders we are subject to the rest of the membership of the Senate, and have to keep ourselves under control . . . to get the Senate to do what is best for the institution of the Senate. This is a very important factor, because a single senator has such great powers he could make it difficult, and if a number of senators got together, it could make the institution an anachronistic body.

"Scott is a very good man to work with," he said. "We lay our cards on the table and don't pull any tricks on each other. Under Johnson sometimes—I won't mention any names—the cards were not always on the table. When LBJ was around, he kept all the reins in his hands. What I learned was through observation, and not through training."

Noting that the Senate glories in its often windy "unlimited debate," I asked whether a senator can actually affect the outcome of a vote through sheer oratorical argument.

"In all my years down here," Mansfield responded, "I have seen just three men change votes—and all in one instance only. Walter George did it on a foreign policy matter I can't remember. Alben Barkley did it on my resolution to create a joint Congressional committee to check up on the CIA. I had fifty-four signatures on the resolution but when Barkley got through talking against it on the floor I wound up with only twenty-eight votes! The third senator was Ed Muskie, who sold the model cities bill by the way he mastered the debate and then switched a lot of ambivalent votes to his side."

Mansfield pointed out that Muskie had worked hard for legislation in which his own state, Maine, had no interest. The hardest time for a senator, he said, is the case where he should vote in good conscience *against* the wishes of his constituents. That "difficult choice" happened to him on the gun control bill in 1968.

Mansfield recalled that he got between 25,000 and 30,000 pieces of mail from Montana against the bill, the biggest outpouring he has ever had.

"You couldn't explain it to them," he said. "It was too emotional. The legislation took away none of their rights, and was no problem out there, where people are trained to use guns. It was directed at urban crime areas, and all it did was provide a closer check on gun sales to help the legal authorities track down murderers."

Did he try to educate Montanans on the issue before casting his vote for gun control?

"I never try to 'educate' anybody," he answered. "I've always gone on the theory that I should listen to the other fellow, recognizing that he might be right. There are always two sides to every question—if not more. People sent me here to use my best judgment. I explain why, and let it go at that.

"I guess I've done very little leading in my life," Mansfield mused wryly, with no trace of regret. "I was a seaman second class in the Navy, a private in the Army, and got as high as private first class in the Marine Corps."

The extraordinary experience of serving in three service branches happened to a rootless transplanted New Yorker. Mansfield was born in New York City on March 16, 1903, the son of Patrick and Josephine (O'Brien) Mansfield, both natives of Ireland. His mother died when he was six and his father, a hotel porter, packed him off with his two sisters to Great Falls, Montana, to live with two uncles.

"In 1917 there was a war on, and I wanted to get into it," he remembered. "I told the Navy recruiting station I was eighteen when I was really fourteen."

After seven Atlantic crossings in transport service, young Mike was discharged by the Navy in 1919 and restlessly joined the Army. After a dull one-year hitch, he next tried the Marines and "hit the jackpot"—service in the Far East.

"I loved the sights, sounds, smells, and the people of China," he said. It was the start of his long preoccupation with Asia.

Mansfield returned to Montana in 1922 and took the only job open to him—a mucker in the Butte copper mines, 2,800 feet below the ground. Within a few years, ambitious for more daylight, he was doing two other things at the same time, making up his high school credits (he had none) while studying for a bachelor's degree at the Montana School of Mines. He also found the time and energy to play on the college football team, a rangy, twenty-four-year-old six-footer at left end.

Mansfield's pursuit of higher education was inspired in part by his high school teacher, pretty Maureen Hayes, a graduate of St. Mary's College of Notre Dame. They were married in 1931. Both are Roman Catholics. They have one daughter, Anne, now living in England with her husband, Robin Marris, a professor of economics at Oxford.

In 1934 Mansfield earned a master's degree in political science and came out of the mines. For the next nine years he taught Latin American and Far Eastern history at Montana State University. In 1942 he was elected to the House.

Four times Mansfield was reelected, and in 1952 he ran for the Senate, where he has served ever since. He continued to specialize in foreign policy, particularly the Far East.

Mansfield told me how he was summoned to the White House by President Roosevelt in 1944, when he was still a green freshman. He still seemed astonished as he described the scene. "I was ushered into the President's study and without any ado he said, 'Mike, I have asked you to come here to request that you undertake a confidential mission for me to China. I've had economic and military reports but what I want is an overall picture and I think you are the man to get it for me. I have been watching your work in Congress.' "

Under secret instructions from FDR, Mansfield was flown in a bucket-seat military plane to interior China for meetings with the American and Chinese generals as well as others. His report, among other recommendations, concluded that Generalissimo Chiang Kai-shek, despite his shortcomings, was the only man who could reunite that war-torn country because "he *is* China."

Mansfield recalled Roosevelt in 1944 and 1945 as "a sick man. I guess the strain was terrible, and it showed."

I asked for his impressions of the other five Presidents he has worked with. He called Harry Truman "a good, down-to-earth man who lived up to the name of his birthplace, Independence, Missouri." He said, "Before the Japanese war ended he called me to the White House with Senator Elbert Thomas, of Utah, another ex-professor, and asked if Emperor Hirohito should be returned to

Japan. We said yes; we thought he would be a solidifying factor."

As for Eisenhower, Mansfield continued, "I liked him. I thought he could have done more than he did, due to his father-figure prestige, but as I look back, I think he did extremely well."

Mansfield was the Senate Democratic delegate to the 1954 Manila Conference, where the Southeast Asia Treaty Organization was created. At a reception during the conference, then Secretary of State John Foster Dulles pulled him into a corner and confided that Admiral Arthur W. Radford, then chairman of the Joint Chiefs of Staff, had recommended a U.S. air strike against the Chinese mainland in the face of the Chinese communists' threats to "liberate" Taiwan from the Chinese Nationalists.

Asked for his review, Mansfield told Dulles he was "adamantly opposed," and that any such action—which could result in war with China—should be taken before a joint session of Congress. When the matter subsequently came before the President, Mansfield learned, Ike said the Senator had taken the right position.

There are four pictures of JFK in Mansfield's leadership office, just off the Senate floor, and one drawing of Jacqueline Kennedy.

"We had a very, very close, very warm relationship," he told me. "Kennedy was never demanding, he simply said what he would like to see done."

When the slain President lay in state in the Capitol rotunda, Mansfield delivered one of the televised eulogies. In a voice uncharacteristically vibrant with barely controlled emotion, he spoke of the significance of the terrible event with a candor that shocked some of the VIP's in the audience. But Jackie Kennedy, thrilled, said it was "as eloquent as a Pericles oration."

When I asked if he had needed any help in preparing his soaring Kennedy tribute, Mansfield said quietly, "No—it just came out."

Remembering Lyndon Johnson as President, Mansfield told me: "We were friendly, and understood each other. He never demanded anything—he knew me pretty well. But he would bring up things about Vietnam with the Cabinet and Joint Chiefs of Staff present, and ask for individual views. On at least three occasions I was the only one who differed from all the rest. He took it, but I don't think he liked it.

"Back in 1964, one month before the Democratic convention," Mansfield continued, "LBJ called me down to the White House and asked me to be his running mate. I said no. Of course, he probably asked the same thing of others, but I would not have taken it even if they forced it on me at the convention. My ambition originally was to be a congressman from Montana, and when I got to be senator that was my *highest* ambition.

"I have always wanted to be my own man," he explained, "and a Vice President—or President—is anything but his own man. I have never for a moment wanted to be President. I often have wondered why so many other senators do want it but I'm glad they do. It has too much responsibility for me."

Returning to his LBJ recollections, Mansfield went on: "In late March, 1968, I went down to the White House about six p.m., very reluctantly, after mutual friends repeatedly urged me to see the President and talk to him about Vietnam. I didn't think it would do any good.

"Johnson very shortly started to talk about Vietnam . . . he asked my opinion about sending 40,000 more troops, I said, 'No, we've got to get out, should not have been there in the first place.' I spent three and a half hours there that night with Johnson. That's a long time for me to be talking to anyone (and this is a long time to be talking to you, Paul) and as I finally got to the door, he said, 'Mike, I wish my leader would support me.' Well, I was not his leader, I was the Senate's leader. 'But,' he said, 'I want you to know I appreciate your honesty in telling me how you feel about it.'

"Three days later I heard him deliver that Sunday night TV speech—which he had been working on that night—and I heard him add that he would not run for reelection. I was surprised."

Mansfield called his relationship with President Nixon "good."

"I think we understand each other in the positions we hold. Early in his first year he often had me down to breakfast where there were just the two of us present, and he raised the question of normalizing our relations with the People's Republic of China. He told me what he intended to do and I gave him my wholehearted support. He said, 'I want you to be the first to visit the PRC' (after his own trip there).

"This has been Nixon's outstanding accomplishment in foreign policy, and it had a greater impact on the world of the foreign policy than that of all the presidents I have worked with."

Although he generally votes with the liberals, Mansfield said he identifies himself only "as a democrat—with a small 'd.'

"I like to keep everything small," he quipped.

Mansfield rides from his northwest Washington home before dawn in the chauffeur-driven limousine provided for the majority leader. By six o'clock he is in his office, where he starts catching up on his mail. He and Maureen are invited to the best parties in town—only because of his senatorial status, he insists—but they join the social whirl only when they have to or really want to. Mansfield said his favorite recreation is to go home and listen to his collection of New Orleans jazz records on his stereo.

When we ended the interview, after three hours, he said with a smile, "Tap 'er light, Paul. That's an old Butte copper miners' expression. It means, 'take it easy.'"

QUORUM CALL

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum, and I ask that it be charged against my time.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for a quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER OF BUSINESS

Mr. BUCKLEY. Mr. President, will the distinguished assistant majority leader yield?

Mr. ROBERT C. BYRD. I shall be glad to yield to the Senator some time. How much time would he like?

Mr. BUCKLEY. Two minutes.

Mr. ROBERT C. BYRD. I shall be glad to yield as much time as he wishes. Three minutes?

Mr. BUCKLEY. Three minutes will be more than adequate.

The ACTING PRESIDENT pro tempore. The Senator from New York is recognized.

DEVELOPMENTALLY DISABLED ASSISTANCE AND BILL OF RIGHTS ACT

Mr. BUCKLEY. Mr. President, I have come to my desk to find legislation, S. 3378, for a very fine purpose; namely, to provide assistance to the developmentally disabled, establish a bill of rights for the developmentally disabled, and for other purposes. This legislation was just printed. It is 376 pages in length. I have asked my staff what it is all about, and I am advised that no report is yet available for it. We do not even have an estimate as to what the authorizations might be that are included.

I have had occasion several times, Mr. President, to express an institutional complaint; namely, that we are required to pass judgment far too many times on complex, far-reaching, novel legislation without any possibility of having the time to inform ourselves as to the contents. Under the circumstances, I advise the leadership that I shall insist that the rules be observed to the letter with bringing up this legislation.

Mr. MANSFIELD. Will the Senator yield?

Mr. BUCKLEY. I am glad to yield.

Mr. MANSFIELD. May I say that the leadership was aware of the interest of the distinguished Senator from New York, but not until this morning. The reports will be available around 2 o'clock this afternoon. The Senator from New York may rest assured that his request will be honored.

Mr. BUCKLEY. I very much appreciate that. I say to the distinguished majority leader that my interest is not because I think there is anything in there that I may disapprove of. It is simply that I do not know what is in there.

Mr. MANSFIELD. Fair enough. The request will be honored.

Mr. STAFFORD. Mr. President, who has the time?

Mr. ROBERT C. BYRD. Mr. President, I yield the Senator from Vermont 2 minutes.

Mr. STAFFORD. I thank the distinguished assistant majority leader.

Mr. President, I simply want to assure the Senator from New York that considerable work has been done on this bill. It is one that Senator RANDOLPH and this Senator has been handling through committee and expect to handle on the floor of the Senate. It is a very long bill. It came out of the subcommittee, and the full committee unanimously, and we were not aware until we learned of the concern of the Senator from New York that there was any objection to it. Otherwise, we would not be prepared to handle it this afternoon.

We want the Senator from New York to have an adequate opportunity to examine the bill and to examine the report before the Senate acts upon this piece of legislation. This Senator does believe that when the Senator from New York has had a chance to examine the

report and examine the bill, he may even wish to be a cosponsor of it before it goes to the Senate.

Mr. BUCKLEY. Mr. President, I wish to make clear that as far as I know, I have no objection to this bill. I simply believe, however, that I have a responsibility to this institution and to the citizens of the State of New York to be somewhat familiar with what, at least in terms of bulk, promises to be a most significant, far-reaching piece of legislation.

I do not want to have to do what we, each one of us, too often find ourselves having to do: Trying to determine within the 15 minutes between when a bell rings and the time we have to vote what some proposal or amendment we have never heard of is intended to do, and whether it merits our support.

Mr. STAFFORD. We appreciate the position of the Senator from New York, and we want him to have adequate opportunity to examine this legislation.

Mr. BUCKLEY. If I may say so, under existing rules, I shall not, in fact, have had that opportunity. I hope that when the next Congress convenes, we shall study this problem with greater care and see if we cannot devise rules that, in the normal case, will allow at least 2 or 3 weeks from the time of the availability of the report before we are forced to vote. Each one of us is bogged down with his own committee responsibilities and his own work. Each one of us is handicapped in terms of inadequate staff capability.

I think that, also, each one of us would like to have public input of the kind that would not be possible by the time we come to vote on this particular bill, which undoubtedly is an excellent bill.

Mr. STAFFORD. I thank the distinguished assistant majority leader for yielding the time.

Mr. ROBERT C. BYRD. Mr. President, if no other Senator requests time, I yield back the remainder of my time.

ORDER TO VACATE ORDER FOR RECOGNITION OF SENATOR GRIFFIN

Mr. ROBERT C. BYRD. Mr. President, in view of the fact that Mr. GRIFFIN did not request an order for time, and I merely had the order entered as a courtesy to Senator GRIFFIN in the event any Senator on his side wished time this morning, I ask unanimous consent that the order for the recognition of Mr. GRIFFIN also be vacated.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ROUTINE MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of routine morning business of not to exceed 15 minutes, with statements therein limited to 5 minutes.

The Senator from Montana is recognized.

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. PASTORE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordeerd.

THE DESIGNATION OF SENATOR HUGHES AS ADDITIONAL CONFEREE ON H.R. 14214

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senator from Iowa (Mr. HUGHES) be added as a conferee on H.R. 14214. This was an oversight which is now being corrected.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

QUORUM CALL

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Marks, one of his secretaries.

APPROVAL OF A BILL

A message from the President of the United States stated that on September 19, 1974, he approved and signed the bill (S. 3052) to amend the act of October 13, 1972.

REPORT OF THE SECRETARY OF AGRICULTURE—MESSAGE FROM THE PRESIDENT

The ACTING PRESIDENT pro tempore (Mr. HATHAWAY) laid before the Senate a message from the President of the United States transmitting a report of the Secretary of Agriculture concerning the activities by the Farmers Home Administration, which, with an accompanying report, was referred to the Committee on Agriculture and Forestry. The message is as follows:

To the Congress of the United States:

I am transmitting herewith the report of the Secretary of Agriculture as required by 7 U.S.C. 1981.

This report sets forth the activities by the Farmers Home Administration in contracting for consultant and feasibility evaluation studies for the purpose of processing Business and Industrial Loans under authority of the Consolidated Farm and Rural Development Act, as amended.

GERALD R. FORD.

THE WHITE HOUSE, *September 26, 1974.*

EXECUTIVE MESSAGES REFERRED

As in executive session, the Acting President pro tempore (Mr. HATHAWAY) laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGE FROM THE HOUSE

At 12:03 p.m., a message from the House of Representatives by Mr. Hackney, one of its reading clerks, announced that the House has passed without amendment the joint resolution (S.J. Res. 244) to extend the termination date of the Export-Import Bank.

The message also announced that the House agrees to the amendments of the Senate to the bill (H.R. 11559) to place certain submerged lands within the jurisdiction of the governments of Guam, the Virgin Islands, and American Samoa, and for other purposes.

The message further announced that the House has passed the bill (H.R. 16032) to authorize the Secretary of the Treasury to change the alloy and weight of the 1-cent piece and to amend the Bank Holding Act Amendments of 1970 to authorize grants to Eisenhower College, Seneca Falls, N.Y., in which it requests the concurrence of the Senate.

ENROLLED BILLS AND JOINT RESOLUTION SIGNED

The message also announced that the Speaker has affixed his signature to the following enrolled bills and joint resolution:

H.R. 11559. An act to place certain submerged lands within the jurisdiction of the governments of Guam, the Virgin Islands, and American Samoa, and for other purposes;

H.R. 15404. An act making appropriations for the Departments of State, Justice, and Commerce, the judiciary, and related agencies, for the fiscal year ending June 30, 1975, and for other purposes; and

S.J. Res. 244. A joint resolution to extend termination date of the Export-Import Bank.

The enrolled bills and joint resolution were subsequently signed by the Acting President pro tempore (Mr. HATHAWAY).

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The ACTING PRESIDENT pro tempore (Mr. HATHAWAY) laid before the Senate the following letters, which were referred as indicated:

SUPPLEMENTAL APPROPRIATION TO PAY CLAIMS AND JUDGMENTS (S. DOC. 93-114)

A communication from the President of the United States requesting a supplemental appropriation of $903,211 to pay claims and

judgments rendered against the United States (with accompanying papers). Ordered to be printed and referred to the Committee on Appropriations.

SUPPLEMENTAL REQUEST FOR THE GOVERNMENT PRINTING OFFICE (S. Doc. 93–115)

A communication from the President of the United States requesting supplemental appropriations for the fiscal year 1975 providing for an increase of $300,000 for the Government Printing Office (with accompanying papers). Ordeerd to be printed and referred to the Committee on Appropriations.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. CRANSTON, from the Committee on Banking, Housing and Urban Affairs, without amendment:

S. 4037. A bill to extend for 2 years the authorization for the striking of medals in commemoration of the 100th anniversary of the cable car in San Francisco (Rept. No. 93–1178).

By Mr. ERVIN, from the Committee on Government Operations, without amendment:

S. Res. 399. A resolution urging full public access to all facts and the fruits of all investigations relating to Watergate and full public access to all papers, documents, memorandums, tapes, and transcripts during the period January 20, 1969, through August 9, 1974 (Rept. No. 93–1179).

S.J. Res. 234. A joint resolution transferring to the State of Alaska certain archives and records in the custody of the National Archives of the United States (Rept. No. 93–1180).

By Mr. ERVIN, from the Committee on Government Operations, with an amendment:

S. 4016. A bill to protect and preserve tape recordings of conversations involving former President Richard M. Nixon and made during his tenure as President, and for other purposes (Rept. No. 93–1181).

S.J. Res. 240. A joint resolution requiring full public access to all facts and the fruits of all investigations relating to Watergate and full public access to all papers, documents, memorandums, tapes, and transcripts during the period January 20, 1969, through August 9, 1974 (Rept. No. 93–1182).

By Mr. ERVIN, from the Committee on Government Operations, with amendments:

S. 3418. A bill to establish a Federal Privacy Board to oversee the gathering and disclosure of information concerning individuals, to provide management systems in Federal agencies, State and local governments, and other organizations regarding such information, and for other purposes (Rept. No. 93–1183).

H.R. 9075. A bill to authorize the disposition of certain office equipment and furnishings, and for other purposes (Rept. No. 93–1184).

By Mr. TUNNEY, from the Committee on the Judiciary, with amendments:

S. 1724. A bill to amend title 28, United States Code, to provide more effectively for bilingual proceedings in certain district courts of the United States, and for other purposes (Rept. No. 93–1185).

By Mr. BIBLE, from the Committee on Interior and Insular Affairs, with amendments:

H.R. 10834. An act to amend the act of October 27, 1972, establishing the Golden Gate National Recreation Area in San Francisco and Marin Counties, Calif., and for other purposes (Rept. No. 93–1186).

By Mr. BURDICK, from the Committee on the Judiciary without amendment:

S. 3021. A bill to amend title 28, United States Code, to provide that Madison County, Fla., shall be included in the northern judicial district of Florida (Rept. No. 93–1187).

By Mr. BURDICK, from the Committee on the Judiciary, with amendments:

S. 3265. A bill to increase the fees and reduce the financial hardships for those individuals who serve on grand or petit juries in district courts (Rept. No. 93–1188).

By Mr. HARTKE, from the Committee on Veterans' Affairs:

S. Res. 412. An original resolution authorizing supplemental expenditures by the Committee on Veterans' Affairs for inquiries and investigations (Rept. No. 93–1189). Referred to the Committee on Rules and Administration.

EXTENSION OF TIME FOR FILING COMMITTEE REPORT ON H.R. 12993

Mr. PASTORE. Mr. President, I ask unanimous consent that the Committee on Commerce have until midnight Friday, September 27, 1974, to file its report on H.R. 12993, a bill relating to broadcast license renewal.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

EXECUTIVE REPORTS OF COMMITTEES

As in executive session, the following executive reports of committees were submitted:

By Mr. FULBRIGHT, from the Committee on Foreign Relations:

William D. Rogers, of Virginia, to be an Assistant Secretary of State; and

Edward S. Little, of Ohio, a Foreign Service officer of class 1, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Chad.

(The above nominations were reported with the recommendation that the nominations be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. BURDICK (for himself and Mr. COOK):

S. 4046. A bill to establish a uniform law on the subject of bankruptcies. Referred to the Committee on the Judiciary.

By Mr. PROXMIRE (for himself and Mr. BROOKE):

S. 4047. A bill to protect purchasers and prospective purchasers of condominium housing units and residents of multifamily structures being converted to condominium units by providing national minimum standards for the regulation and disclosure of condominium sales to be administered by the Secretary of Housing and Urban Development. Referred to the Committee on Banking, Housing, and Urban Affairs.

By Mr. MONDALE:

S. 4048. A bill for the relief of Alfred Francis, wife, Doreen, and Anthony and Angeline Francis. Referred to the Committee on the Judiciary.

By Mr. SCHWEIKER:

S. 4049. A bill to reduce interest rates and make additional credit available for essential economic activities. Referred to the Committee on Banking, Housing, and Urban Affairs.

By Mr. MONTOYA:

S. 4050. A bill to establish a temporary special commission on Guadalupe-Hidalgo land rights. Referred to the Committee on the Judiciary.

By Mr. TUNNEY (for himself and Mr. HART):

S. 4051. A bill to establish a Research and Development Program within the Department of Commerce for alleviating shortages of products and materials in interstate commerce, and for other purposes. Referred to the Committee on Commerce.

By Mr. HARTKE:

S. 4052. A bill to amend the Internal Revenue Code of 1954 to provide a refundable credit against tax for post-secondary education expenses for tuition and fees paid by the taxpayer attributable to the attendance of a student at an institution of post-secondary education, and for other purposes. Referred to the Committee on Finance.

By Mr. PELL:

S. 4053. A bill to establish a commission to study rules and procedures for the disposition and preservation of records and documents of Federal officials. Referred to the Committee on Government Operations.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BURDICK (for himself and Mr. COOK):

S. 4046. A bill to establish a uniform law on the subject of bankruptcies. Referred to the Committee on the Judiciary.

Mr. BURDICK. Mr. President, today Senator COOK and I are introducing, by request, a bill to revise the Bankruptcy laws of the United States.

The bill that is being introduced today is a bill which is sponsored by the National Conference of Bankruptcy Judges and one which is the end product of several months of intensive work by the National Conference of Bankruptcy Judges.

On October 11, 1973, Senator COOK and I introduced S. 2565, to revise the Bankruptcy laws of the United States. That bill was the end product of over 2 years of work by the Bankruptcy Commission.

A quarter century has now passed without major amendment to the Bankruptcy Act. During that period there has been a staggering increase in bankruptcy filings, from 10,000 in 1946 to 200,000 in 1972. It is not surprising that serious flaws have developed.

While there is general agreement that a new bankruptcy law is needed to remedy the faults of the present system, there are, of course, differences as to the exact form this new law should take. The bill being introduced reflects the thinking of the National Bankruptcy Conference as to the most effective changes in modernizing the administrative structure of the bankruptcy courts and, in general, setting uniform standards and laws throughout the United States.

While I am not unalterably wed to each and every provision of this bill, I believe that it will serve as an excellent

vehicle alongside S. 2565 for further study of the needed reforms of the Federal bankruptcy law.

By Mr. PROXMIRE (for himself and Mr. BROOKE):

S. 4047. A bill to protect purchasers and prospective purchasers of condominium housing units and residents of multifamily structures being converted to condominium units by providing national minimum standards for the regulation and disclosure of condominium sales to be administered by the Secretary of Housing and Urban Development. Referred to the Committee on Banking, Housing, and Urban Affairs.

Mr. PROXMIRE. Mr. President, on behalf of the distinguished Senator from Mass. (Mr. BROOKE) and myself, I introduce today a bill to protect the condominium buyer from misrepresentations and abuses which have received increasing attention as the "condominium craze" spreads throughout our Nation's metropolitan areas and vacation spots. Our bill will set Federal standards for regulation and disclosure in connection with condominium sales and require the Secretary of the Department of Housing and Urban Development to enforce these standards.

The condominium boom, once confined to vacation spots, is now hitting our Nation's cities with epidemic force. A study of 25 metropolitan areas showed that in 1972, 40.3 percent of the new units for sale were condominiums. The figures for individual cities ran far higher. In Milwaukee, for example, 45 percent of the new housing was condominiums; in Cleveland it was 57 percent, in Bridgeport, Conn. an astonishing 83 percent.

All indications are that the condominimum craze is growing rapidly and changing the face of the housing market. The National Association of Homebuilders estimates that condominiums accounted for 8 percent of total housing starts in 1972, 10.8 percent in 1973 and up to 14.3 percent this year.

Furthermore, these figures just take into account new condominium construction. The total is in fact much larger because of the huge number of apartment buildings that are being converted from rental to condominium units, thus feeding the ownership market at the expense of the rental market.

What does the condominium buyer get in his purchase? He becomes the owner of one unit in a multi-family housing complex, which may be an apartment in a high-rise or low-rise structure or a townhouse, and may be located in the city's center, in the suburbs, or in a resort area. Along with his unit, the buyer also acquires an undivided share in the project's common areas and facilities, which can range from the lobby, grounds, and electrical and mechanical systems to extensive recreational facilities such as swimming pools and tennis courts.

The price of a condominium can range from $20,000 or less to over $100,000. The purchaser makes monthly payments on the mortgage on his unit and takes the same tax deductions for mortgage interest and property taxes as does the owner of a single-family home. In addition, the condominium owner pays a monthly condominium fee, for operating and maintenance and any common costs shared by the project's owners as a whole; this is not tax deductible. Other fees may be charged on top of that, such as recreation fees.

CAUSES OF THE "CONDOMINIUM CRAZE"

What are the causes of the condominium craze? The basic answer is cost. Inflation in real estate prices has pushed the price of the standard single-family house beyond the reach of many potential homebuyers. Soaring land and construction costs, sewer moratoriums and other anti-growth policies have placed further pressures on the supply and price of housing, leading even to some predictions that the single-family detached house may become obsolete.

Another side of the picture is that rental housing has become an increasingly less attractive investment. Costs of maintenance and utilities have risen rapidly, as have real estate taxes, and imposition of rent controls in many cities has cut into landlords' profit margins. Thus the incentive is to turn the building over to a developer, who takes his tax breaks, does some renovation, then sells the units at an inflated price and gets his money out fast. As for building new rental housing, costs of construction make projected rents prohibitively high, and here again, the developer sees an advantage in getting his money out quickly and turning responsibility for running the building over to the residents.

BRIGHT PROMISES, SAD REALITIES

So developers and real estate agents are heralding the condominium as the wave of the future. Open the real estate pages of any metropolitan area newspaper and you will be bombarded with advertisements that promise your dreams will come true when you buy your own condominium. Prospective buyers are told that they will have all the advantages of homeownership, without the headaches of maintenance and repair. They are lured with visions of swimming pools and tennis courts—country club living at apartment prices.

Certainly condominiums do represent an attractive housing choice for many people. They offer homeownership and its accompanying tax benefits to people whose incomes are too low to afford conventional housing.

But too often bright promises fade in the face of sad realities, and the condominium owner finds himself faced with unanticipated problems and unexpected expenses.

The monthly condominium fee charged for maintaining common areas and other building expenses doubles or triples, because the developer understated the expenses in the promotional material.

The swimming pool he thought he had bought along with the house turns out to belong instead to the developer, who rents it out to the condominium owners at an exorbitant fee.

The project's owners are locked into a long-term contract with a management company, often one in which the developer has an interest, so they are not free to select the management and negotiate the rates.

In older buildings converted to condominiums, owners are often saddled with expensive repairs, as long-neglected electrical and mechanical systems left untouched by cosmetic renovation fall apart completely.

The owner may find himself paying as much or more for his condominium as he would have to pay for a house. He is disappointed and frustrated; he feels he has been misinformed and misled. And yet willy-nilly he is the owner of his condominium castle, and the law holds that he is responsible for whatever befalls him in it.

NEED FOR FEDERAL REGULATION OF CONDOMINIUM SALES

Mr. President, there is an obvious need for more protection for the consumer entering the condominium market. A condominium is a complex legal entity involving several levels of ownership and responsibility. There is much room for misunderstanding; there is great opportunity for abuse.

The legislation we are introducing today is aimed at clearing up misunderstandings and eliminating abuse. It requires that the prospective condominum purchaser receive full disclosure of the details of his purchase, including a description of his legal rights and responsibilities, a statement of all the costs he will have to bear, and an explanation of what the developer is providing in addition to the condominium unit itself.

In addition to giving full disclosure, the bill places requirements on the developer which are designed to protect the consumer from abuses often associated with condominium purchases. These include a 1-year warranty on the structure and mechanical and other systems, coupled with a statement of the responsibility of the developer for any structural or engineering defects; assurances that the owners will be able to form an owners' association within 1 year to select the project management and will not be bound by any long-term management contracts; and a requirement that recreation fees be stated separately, with an indication of the extent to which purchase of the condominium includes use of the project's recreational facilities.

The bill directs the Secretary of the Department of Housing and Urban Development to issue rules and regulations necessary to carry out the requirements of the legislation. It also calls on him to draw up, within 1 year following the date of enactment, standard forms to be used in all condominium transactions. One of the problems faced by condominium purchasers is that the legal documents involved in the transaction are so long and complicated that the buyer is in doubt as to what they entail. This bill would require full disclosure of the terms of the transaction in clear and concise form.

NEED FOR REGULATION OF CONDOMINIUM CONVERSIONS

Mr. President, there are special problems involved in the conversion of existing structures to condominiums, and this bill seeks to address those problems.

First, the prospective purchaser runs the risk of buying into a building which looks all right on the surface but turns out to have faulty wiring, or a worn-out heating system, or to be falling apart in any number of ways. Our bill requires that each prospective purchaser of a unit in a building converted to a condominium receive an engineering report on the condition and rated life and expected useful life of the structure and all engineering systems, together with a projection of repair and replacement costs over the next 5 years. He would also receive a statement of the operating and maintenance costs of the building as a whole and of each unit for the preceding 3 years, to give him additional information on the condition of the building and the costs he will have to bear.

A second problem, and one which concerns me greatly, is the fate of the tenants of rental buildings which are converted to condominiums. When the conversion occurs, the tenant is forced either to buy his apartment or to move out. Often he has to do this on very short notice. This works a particular hardship on certain groups of tenants, such as the elderly and lower income people, who may well not be able to afford to buy their units and may have great difficulty finding other housing.

The problem is compounded when one looks at the rental housing market as a whole. Condominium conversions are aggravating the already severe shortage of rental units in metropolitan areas. The supply of rental housing is dwindling rapidly, particularly the supply of moderately priced rental housing, while the demand for such housing continues and grows.

Under current conditions, many groups in the population can only be served by rental housing. Lower income people cannot get mortgages. Elderly people, even if their incomes are high enough, are also denied mortgages on account of their age. Students, young people, people on temporary—all seek rental housing to meet their needs.

Mr. President, in this legislation we attempt to deal with some of these problems and look for solutions to them.

The bill directs the Secretary of HUD to make a study, and report back to Congress within 1 year following the date of enactment, with respect to the state of the rental housing market in representative metropolitan areas and the effects of condominium construction and conversion on that market. The aim is to measure the demand for rental housing and the projected supply to meet that demand, and then to recommend measures to increase the supply of rental housing if it appears—as I believe it will—that we are facing shortages and severe hardship in this area.

Furthermore, the bill calls for specific recommendations from the Secretary to deal with the problems of tenants affected by condominium conversion. It directs him to explore such approaches as requiring that at least 50 percent of the tenants agree either to purchase their units or to move out before the structure can be converted, or deferring conversions in areas where the rental market is not sufficient to take care of tenants displaced by such conversions, or giving tenants who would experience severe hardship in relocating special consideration, such as continued rental of their units or preferential financing arrangements.

FEDERAL LEGISLATION NEEDED TO COMPLEMENT STATE AND LOCAL EFFORTS

Mr. President, I must call attention to the fine work already done in some States and localities to address the problems involved in the condominium boom and to regulate condominium sales. Laws of this sort have been passed recently in such places as Maryland, Virginia, New York, Florida, and the District of Columbia. This legislation draws on many of ideas and provisions contained in those existing laws.

Some have claimed that regulation of condominium sales should appropriately be carried out at the State and local level and that the Federal Government should not play a role in this area.

Senator BROOKE and I certainly do not intend to preempt the role of States and localities in regulating condominium sales where a positive and comprehensive effort is being made. In fact, this bill specifically provides that State or local laws shall prevail where they are not inconsistent with standards established under this legislation, and it allows the States and localities to set more stringent standards for consumer protection as well.

Nonetheless, we believe there is a definite and compelling need for Federal regulatory legislation at this time. The condominium craze has given rise to a host of questions and problems which demand the consideration of the Congress and of the Federal Government. This matter affects a large number of our citizens. It is a major component of the housing market nationwide.

It is our duty to examine all aspects of the condominium phenomenon and to prescribe corrective measures where difficulties and abuses exist. Moreover, it is important to do this at the Federal level. If it is done in a piecemeal and patchwork fashion, then we will end with a maze of differing and conflictng local standards whch will cause more confusion and invite further abuses. Developers will move from States with strong laws and into States with weaker laws. A person who moves from one place to another will find that the protections he enjoyed formerly are no longer available in his new place of residence.

Mr. President, the Housing Subcommittee of the Senate Committee on Banking, Housing and Urban Affairs will hold hearings on condominium legislation on October 9 and 10. I look forward to those hearings as an opportunity to examine further all the factors involved in condominium sales and to gather information useful for the committee's work on condominium legislation.

Mr. President, I ask unanimous consent that the full text of the bill be printed in the RECORD at the conclusion of the remarks of the Senator from Massachusetts (Mr. BROOKE).

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BROOKE. Mr. President, 15 years ago the word "condominium" was unfamiliar to all but a few Americans. Today it would be surprising to find an urban resident who hasn't heard of condominiums. About 2 million American families own housing units under this form of ownership, and the construction of new condominiums as well as the conversion of existing structures to condominiums seems to be absorbing the attention of a large part of the real estate industry in many of our cities.

Between 1970 and the present time, condominium ownership has increased almost sevenfold from 300,000 units to approximately 2 million units. Thousands of rental units in existing structures are each year converted to condominiums, decreasing the supply of rental housing in many urban areas.

Our communities have hardly had time to assess the impact of this new trend in the housing market. A number of questions regarding condominiums have arisen and remain unanswered: What protections should be given by law to condominium buyers? What role should developers be permitted to play in the management of condominium projects? What are the implications of condominium conversions for the rental housing market? Are our Federal tax laws deciding the future of the urban rental housing market by encouraging condominium construction and conversion? What are the implications for lower income families?

Some State legislatures have taken the initiative in passing laws to protect condominium purchasers. Newspapers and television networks have started to run features on condominiums, and the public is becoming educated. However, the Congress has yet to consider the implications of burgeoning condominium development on our housing markets.

With a view to stimulating discussion of this issue and protecting the condominium purchaser, Senator PROXMIRE and I have introduced the Condominium Act of 1974. The Senate Housing Subcommittee plans to hold hearings on our bill on October 9 and 10. While it may be too late for condominium legislation to be enacted in this session of the Congress, we hope that by initiating consideration of this subject in the 93d Congress, we shall be on the way to prompt action in this area in the 1st session of the 94th Congress.

A bill to protect purchasers and prospective purchasers of condominium housing units and residents of multifamily structures being converted to condominium units by providing national minimum standards for the regulation and disclosure of condominium sales to be administered by the Secretary of Housing and Urban Development.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Condominium Act of 1974."

DEFINITIONS

SEC. 2. For the purposes of this Act, the term—

(1) "Secretary" means the Secretary of Housing and Urban Development;

(2) "person" means an individual, incorporated organization, partnership, association, corporation, trust, or estate;

(3) "condominium" means a single-family dwelling unit which is sold or offered for sale (or held) together with and undivied interst in common areas of the project in which the unit is located;

(4) "condominium project" means a multifamily housing project, consisting of one or more buildings and related property, facilities, and appurtenances, in which all of the dwelling units (or some but not all of the dwelling units where clause (2) of section 10 applies) are or will be held as condominiums;

(5) "condominium instruments" means all legal instruments, contracts, plats, plans, or other documents which are recorded or filed, with respect to a condominium project, under local law, or which the Secretary, by regulation, determines are relevant to the rights of a purchaser of a condominium in a project and to the effective enforcement of this Act;

(6) "developer" means any person who owns or constructs a condominium project (or converts or proposes to convert a multifamily rental housing project to condominium ownership) and who offers or proposes to offer dwelling units in such project for sale;

(7) "agent" means any person who represents or acts for or on behalf of a developer in selling or offering to sell any condominium in a project, but such term does not include an attorney at law whose representation of another person consists solely of rendering legal services;

(8) "federally related condominium housing loan" means a loan which is made to finance the transfer of a condominium to an individual or family or the purchase, construction, rehabilitation, or conversion of an existing structure to a condominium project by a developer, and which—

(A) is made in whole or in part by a lender the deposits or accounts of which are insured by any agency of the Federal Government, or is made in whole or in part by a lender which is itself regulated by any agency of the Federal Government; or

(B) is made in whole or in part, or insured, guaranteed, supplemented, or assisted in any way, by the Secretary or any other officer or agency of the Federal Government or under or in connection with a housing or urban development program administered by the Secretary or a housing or related program administered by any other such officer or employee; or

(C) is eligible for purchase by the Federal National Mortgage Association, the Government National Mortgage Association, or the Federal Home Loan Mortgage Corporation, or from any financial institution from which it could be purchased by the Federal Home Loan Mortgage Corporation; or

(D) is made in whole or in part by any "creditor", as defined in section 103(f) of the Consumer Credit Protection Act of 1968 (15 U.S.C. 1602(f)), who makes or invests in residential real estate loans aggregating more than $1,000,000 per year;

and the term "federally related condominium project" means a condominium project (i) the purchase, construction, rehabilitation, or conversion of which was financed in whole or in part with a federally related housing loan a portion of which remains outstanding, or (ii) dwelling units in which are currently (as determined by the Secretary) being sold with the aid of federally related housing loans;

(9) "interstate commerce" means trade or commerce among the several States;

(10) "State" includes the several States, the District of Columbia, the Commonwealth of Puerto Rico, and the territories and possessions of the United States;

(11) "purchaser" means an actual or prospective purchaser or lessee of a condominum in a project; and

(12) "offer" includes any inducement, solicitation, or attempt to encourage a person to acquire a condominium in a project.

PROHIBITION; REQUIREMENTS FOR FEDERAL ASSISTANCE TO CONDOMINIUMS

SEC. 3. (a) (1) It shall be unlawful for any developer or agent, directly or indirectly, to make use of any means or instrument of transportation or communication in interstate commerce, or of the mails, to sell any condominium in any project unless the project is registered and a statement of record with respect to such condominium is in effect in accordance with sections 4, 5, and 6, and a printed public offering statement, meeting the requirements of section 7, is furnished to the purchaser in advance of the signing of any contract or agreement for sale by the purchaser.

(2) Any contract or agreement for the purchase of a condominium in a project covered by this Act, where the public offering statement has not been given to the purchaser in advance or at the time of his signing, shall be voidable at the option of the purchaser. A purchaser may revoke such contract or agreement within ten days, where he has received the public offering statement less than forty-eight hours before he signed the contract or agreement, and the contract or agreement shall so provide.

(b) No federally related condominium housing loan shall be made unless (1) the project is registered and a statement of record with respect to the project or the condominium involved is in effect in accordance with sections 4, 5, and 6, and (2) the developer of the project submits such statement of record along with the application for such loan.

REGISTRATION OF CONDOMINIUM PROJECTS

SEC. 4. (a) A project shall be registered by filing with the Secretary a statement of record, containing the information specified in section 5, which (1) meets the requirements of this Act and such rules and regulations as may be prescribed by the Secretary in furtherance of the provisions of this Act, and (2) is approved by the Secretary as being accurate, complete, and in accordance with the purposes of this Act.

(b) At the time of filing a statement of record, or any amendment thereto, the developer shall pay to the Secretary such fee as the Secretary may prescribe to cover the cost of rendering services under this Act.

(c) The filing with the Secretary of a statement of record, or an amendment thereto, shall be deemed to have taken place upon the receipt thereof, accompanied by payment of the fee required by subsection (b); and such statement shall become effective as provided in section 6.

(d) The information contained in or filed with any statement of record shall be made available to the public under such regulations as the Secretary may prescribe, and copies thereof shall be furnished to every applicant at such reasonable charge as the Secretary may prescribe.

CONTENTS OF STATEMENT OF RECORD

SEC. 5. (a) The statement of record required by section 3 and referred to in section 4(a) shall contain or be accompanied by—

(1) the name and address of each person having an interest in or lien on the project covered by the statement and the extent of such interest (including any interest to be retained by the developer);

(2) the developer's name and address, and, in the case of an organization, the form, date, and jurisdiction of the organization and the address of each of its officers;

(3) the name, address, and principal occupation for the past three years of every officer of the developer;

(4) a statement of the condition of title to the project for one year preceding the date of application, furnished in a title opinion of a licensed attorney who is not a salaried employee, officer, or director of the developer, or supported by other evidence of title acceptable to the Secretary;

(5) a legal description of the project and the land on which it is situated, in sufficient detail to identify the common elements and units in the project and their relative locations and approximate dimensions, together with copies (signed by a professional registered engineer or architect or both) of all engineering and architectural plans for the construction or conversion of the project;

(6) a copy of all condominium instruments;

(7) the estimated operating and maintenance costs of the project, as well as any other costs which may be passed on to the owners of the dwelling units in the project whether in the form of recreational fees, maintenance fees, or otherwise;

(8) recreation fees (A) will be stated separately from any other fees to be charged purchasers of dwelling units in the project, and each prospective purchaser of a dwelling unit in the project will be informed in writing of (i) the extent to which (and the basis on which) the purchase of such unit would include the use of the project's recreational services and facilities and (ii) the nature of the interest in such services and facilities which the purchase of such unit would confer.

(9) satisfactory assurances that no certificate of occupancy will be presented by the developer, or utilized to compel the signature of any prospective purchaser, until the structure involved is 95 per centum completed;

(10) a clear statement of the responsibility of the developer for any structural or engineering defects in the project;

(11) satisfactory assurances that all purchasers of dwelling units in the projects will be given a full one-year warranty on all electrical, heating, air-conditioning, and ventilation equipment and on the plumbing, roofing, and elevators;

(12) satisfactory assurances that—

(A) owners of the condominiums in the project will be permitted to form an owners' association, to select the project management, and to establish appropriate employment contracts and other contracts or agreements affecting the use, maintenance, or access to all or a part of the project no later than one year after the initial occupany of the project or as soon as 80 per centum of the units are occupied as condominiums, whichever is earlier;

(B) each owner of a condominium in the project shall have one unit in the owners' association;

(C) if, after one year, 100 per centum of the units are not sold as condominiums, the developer may participate in the owner's association in his capacity as owner of the units not sold, and

(D) the developer will not establish a management lease which is enforceable against the owners of the units in the project beyond the earliest date on which such owners are authorized to select the project management and establish related contracts as described in subparagraphs (A), (B) and (C);

(13) a statement of any zoning or other governmental regulations affecting the use of the project, including the site plans and building permits and their status, and a statement of existing or proposed special taxes or assessments which may affect the project;

(14) a narrative description of the promotional plan for the disposition of the condominiums in the project;

(15) a copy of the proposed public offering statement in accordance with the provisions of Section 7; and

(b) In any case where the project involved is a leased-unit structure which is to be converted to a condominium project, the information required in the statement of record shall also include satisfactory assurances that—

(1) existing tenants will have first priority to purchase dwelling units in the project;

(2) all of the tenants of the structure or structures involved will have been given at least six months, after notification of the proposed conversion, to decide whether or not to purchase their dwelling units;

(3) no tenant will be required to move from the project upon its conversion without ninety days' written notice;

(4) no lease agreement outstanding at the time of conversion (and covering a dwelling unit in the project) will be abridged without the consent of both the lessee and the developer;

(5) each prospective purchaser of a dwelling unit in the project will be furnished with copies of the purchase agreement and the public offering statement at least fifteen days prior to signing, and in addition will be furnished with—

(A) a statement of the total operating and maintenance costs of the structure, and of the operating and maintenance costs per unit, on a monthly and yearly basis, for preceding three years.

(B) a statement of the costs to be assumed by the owners of dwelling units in the project, both on a unit-by-unit basis and for the project as a whole;

(C) a list of the services to be offered to owners of dwelling units in the project;

(D) statement of any changes to be made in the structure, with floor plans showing the contemplated alterations;

(E) a description of any new additions to be made to the structure (including recreational facilities) and the cost thereof;

(E) a report from a qualified licensed engineer stating the condition and the rated life and expected useful life of the roof, foundation, external and supporting walls, mechanical, electrical, plumbing and structural elements, and all other common facilities, together with an estimate of repair and replacement costs projected for the five years following the effective date of the statement of record; and

(F) a list of any outstanding building code or other municipal regulation or code violations, which shall include the dates the premises were last inspected for code or regulations compliance.

(c) The fact that a statement of record with respect to a project has been filed or is in effect shall not be deemed a finding by the Secretary that the statement of record is true and accurate on its face, or be held to mean the Secretary has in any way passed upon the merits of, or given approval to, such project. It shall be unlawful to make, or cause to be made, any prospective purchaser any representation contrary to the foregoing.

EFFECTIVE DATE OF STATEMENT OF RECORD

SEC. 6. (a) Except as hereinafter provided, the effective date of a statement of record, or any amendment thereto, shall be the thirtieth day after the filing thereof or such earlier date as the Secretary may determine, having due regard to the public interest and the protection of purchasers. If any amendment to any such statement is filed prior to the effective date of the statement, the statement shall be deemed to have been filed when such amendment was filed; except that such an amendment filed with the consent of the Secretary, or filed pursuant to an order of the Secretary, shall be treated as being filed as the date of the filing of the statement of record.

(b) If it appears to the Secretary that a statement of record, or any amendment thereto, is on its face incomplete or inaccurate in any material respect, the Secretary shall so advise the developer within a reasonable time after the filing of the statement or the amendment, but prior to the date the statement or amendment would otherwise be effective. Such notification shall serve to suspend the effective date of the statement or the amendment until thirty days after the developer files such additional information as the Secretary shall require. Any developer, upon receipt of such notice, may request a hearing, and such hearing shall be held within twenty days of receipt of such request by the Secretary.

(c) If, at any time subsequent to the effective date of a statement of record, a change occurs affecting any material fact required to be contained in the statement, the developer shall promptly file an amendment thereto. Upon receipt of any such amendment, the Secretary may, if he determines such action to be necessary or appropriate in the public interest or for the protection of purchasers, suspend the statement of record until the amendment becomes effective.

(d) If it appears to the Secretary at any time that any statement of record which is in effect includes any untrue statement of a material fact or omits to state any material fact required to be stated therein or necessary to make the statements therein not misleading, the Secretary may, after notice, and after opportunity for hearing (at a time fixed by the Secretary) within fifteen days after such notice, issue an order suspending the statement of record. When such statement has been amended in accordance with such order, the Secretary shall so declare and thereupon the order shall cease to be effective.

(e) The Secretary is authorized to make an examination in any case to determine whether an order should issue under subsection (d). In making such examination, the Secretary or anyone designated by him shall have access to and may demand the production of any books and papers, and may administer oaths and affirmations and examine, the developer, any agents, or any other person, in respect of any matter relevant to the examination. If the developer or any agent fails to cooperate, or obstructs or refuses to permit the making of an examination, such conduct shall be proper ground for the issuance of an order suspending the statement of record.

(f) Any notice required under this section shall be sent to or served on the developer or his authorized agent.

CONTENTS OF PUBLIC OFFERING STATEMENT

SEC. 7. (a) A public offering statement relating to the condominiums in a project shall contain such of the information contained in the statement of record, and any amendments thereto, as the Secretary may deem necessary, and shall disclose fully and accurately, in accordance with the provisions of this Act, the characteristics of the project and the condominiums therein offered and shall make known to prospective purchasers all material circumstances or features affecting the condominiums. Such statement shall include—

(1) the name and address of the registrant;

(2) a general narrative description of the project stating the total number of units planned to be sold or rented, and the total number of units that may be included in the project by reason of future expansion or merger of the project by the registrant;

(3) copies of the declaration and bylaws, with a brief narrative statement describing each and including information on declarant control, a projected budget for at least the first and second years of the project's operation (including projected common expense assessments for each unit), and provisions for reserves for capital expenditures and restraints on alientation;

(4) copies of the management contract, described in section 5(a)(11), any lease of recreational areas, and any similar contract or agreement affecting the use, maintenance, or access to all or any part of the project with a brief narrative statement of the effect of each such contract or agreement upon a purchaser, and a statement of the relationship, if any, between the registrant and the managing agent;

(5) a general description of the status of construction, zoning, site plan approval, issuance of building permits, and compliance with any other State or local statute or regulation affecting the project;

(6) satisfactory assurances that the date on which each structure in the project is to be completed will be clearly set forth in each purchase agreement covering a dwelling unit in such structure.

(7) the significant terms of any encumbrances, easements, liens, or other matters of title affecting the project;

(8) the significant terms of any financing offered by the registrant to purchasers of units in the project;

(9) the provisions of the warranties required by section 5(a)(10);

(10) a statement of the rights guaranteed a purchaser under section 3(a)(2); and

(11) such other information, documents, and certifications as the Secretary may require in order to assure that purchasers are protected in a manner consistent with the purpose of this Act.

(b) The public offering statement shall not be used for any promotional purposes before registration of the project and afterward only if it is used in its entirety. The Secretary shall require that the registrant alter or amend the proposed public offering statement in order to assure full and fair disclosure to prospective purchasers. No change in the substance of the promotional plan or plan of disposition or development of the project may be made after registration without notifying the Secretary and without an appropriate amendment to the public offering statement.

INVESTIGATIONS

SEC. 8. (a) The Secretary shall conduct such investigations as may be appropriate to determine the extent of compliance with section 3(a)(1) by a developer or agent. If the Secretary finds any material misrepresentation in any case, he shall afford the developer a ten-day period to correct the representation.

(b) Whenever it shall appear to the Secretary that any person is engaged or about to engage in any acts or practices which constitute or will consitute a violation of the provisions of this Act or of any rule or regulations prescribed hereunder, he may, in his discretion, bring an action in any district court of the United States, or the United States District Court for the District of Columbia to enjoin such acts or practices, and, upon a proper showing, a permanent or temporary injunction or restraining order shall be granted without bond. The Secretary may transmit such evidence as may be available concerning such acts or practices to the Attorney General who may, in his discretion, institute the appropriate criminal proceedings under this Act.

(c) The Secretary may, in his discretion, make such investigations as he deems necessary to determine whether any person has violated or is about to violate any provision of this Act or any rule or regulation prescribed hereunder, and may require or permit any person to file with him a statement in writing, under oath or otherwise as the Secretary shall determine, as to all the facts and circumstances, concerning the matter to be investigated. The Secretary is authorized, in his discretion, to publish information concerning any such violations, and to investigate any facts, conditions, practices, or matters which he may deem necessary or proper to aid in the enforcement of the provisions of this Act, in the prescribing of rules and regulations thereunder, or in securing

information to serve as a basis for recommending further legislation concerning the matters to which this Act relates.

(d) For the purpose of any such investigation, or any other proceeding under this Act, the Secretary, or any officer designated by him, is empowered to administer oaths and affirmations, subpena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memorandums, or other records which the Secretary deems relevant or material to the inquiry. Such attendance of witnesses and the production of any such records may be required from any place in the United States or any State at any designated place of hearing.

(e) In case of contumacy by, or refusal to obey a subpena issued to, any person, the Secretary may invoke the aid of any court of the United States within the jurisdiction of which such investigation or proceeding is carried on, or where such person resides or carries on business, in requiring the attendance and testimony of witnesses and the production of books, papers, correspondence, memorandums, and other records and documents. Such court may issue an order requiring such person to appear before the Secretary or any officer designated by the Secretary, there to produce records, if so ordered, or to give testimony touching the matter under investigation or in question; and any failure to obey such order of the court may be punished by such court as a contempt thereof. All process in any such case may be served in the judicial district whereof such person is an inhabitant or wherever he may be found.

PENALTIES

SEC. 9. Any person who willfully violates any provision of this Act or of the rules and regulations prescribed hereunder, or any person who willfully, in a statement of record filed or public offering statement issued pursuant to this Act, makes any untrue statement of a material fact or omits to state any material fact required to be stated therein, shall upon conviction be fined not less than $5,000 or imprisoned not less than six months, or both.

AUTHORITY OF THE SECRETARY

SEC. 10. (a) The Secretary is authorized to issue such rules and regulations and such orders as are necessary or appropriate to the exercise of the functions and powers conferred upon him elsewhere in this Act, and for such purpose he may (1) classify persons and matters within his jurisdiction and prescribe different requirements for different requirements for different classes of persons or matters, and (2) modify the provisions and requirements of this Act, to the extent necessary to assure that it will apply in accordance with its purpose, in any case where only a part of the units in a project are or will be condominiums.

(b) The Secretary shall develop and prescribe, within 1 year following the date of enactment, a standardized form for the statement of record, containing the information specified in section 5, and for the public offering statement, containing the information specified in section 7, and such forms shall be uniformly used (with only such minimum variations, in different areas, as may be necessary to reflect unavoidable differences in legal and administrative requirements) as the standard forms in all transactions in any State which involve federally related condominium housing loans.

STUDY OF RENTAL HOUSING SITUATION AND TENANT RELOCATION PROBLEMS

SEC. 11. (a) The Secretary is authorized and directed to conduct a full and complete study, and report to Congress not later than one year after the date of enactment of this Act, with respect to the state of the rental housing market in representative metropolitan areas experiencing significant increases in condominium construction and condominium conversions. Such study shall include, but not be limited to, the following:

(1) Rates of increase or decrease in rental housing units and condominium (or cooperative) units available to individuals and families at different income levels.

(2) Trends in demand for rental and condominium (or cooperative) units, including projections of future demand.

(3) Factors affecting conversion of existing rental housing to condominium projects, including the impact of tax laws and other Federal, State, and local laws or regulations; financial factors involved in rental housing management, and trends in housing construction.

(b) On the basis of the study authorized in section (a), the Secretary shall report to Congress within one year following the date of enactment his recommendations for handling tenant relocation problems involved in condominium conversion and shall give particular attention to the following possible approaches:

(1) a requirement that approval of any federally related condominium housing loan for a condominium conversion project be contingent upon its being demonstrated that at least 50 percent of the tenants have freely agreed either to purchase a dwelling unit in the structure or to move from the structure;

(2) a requirement that tenants who would experience severe hardship in relocating be given special consideration, such as continued rental of certain units in the structure, preferential financing arrangements, or relocation services.

(3) authority for the Secretary to defer condominium conversions in an area until such time as the rental market will provide sufficient rental housing to accommodate tenants who would be displaced by such conversions.

(c) On the basis of the study authorized in section (a) and any other current studies bearing on this matter, the Secretary shall report to Congress as soon as is feasible and no later than 2 years following the date of enactment of this Act his findings with respect to supply and demand in metropolitan rental housing markets and his recommendations for meeting the projected demand for rental housing, including any proposed changes in law or administrative procedure.

COURT REVIEW OF ORDERS

SEC. 12. (a) Any person aggrieved by an order or determination of the Secretary issued after a hearing may obtain a review of such order or determination in the court of appeals of the United States within any circuit wherein such person resides or has his principal place of business, or in the United States Court of Appeals for the District of Columbia, by filing in such court, within sixty days after the entry of such order or determination, a written petition praying that the order or determination of the Secretary be modified or be set aside in whole or in part. A copy of such petition shall be forthwith transmitted by the clerk of the court to the Secretary, and thereupon the Secretary shall file in the court the record upon which the order or determination complained of was entered, as provided in section 2112 of title 28, United States Code. No objection to an order or determination of the Secretary shall be considered by the court unless such objection shall have been urged before the Secretary. The finding of the Secretary as to the facts, if supported by substantial evidence, shall be conclusive. If either party shall apply to the court for leave to adduce additional evidence, and shall show to the satisfaction of the court that such additional evidence is material and that there were reasonable grounds for failure to adduce such evidence in the hearing before the Secretary, the court may order such additional evidence to be taken before the Secretary and to be adduced upon a hearing in such manner and upon such terms and conditions as to the court may seem proper. The Secretary may modify his findings as to the facts by reason of the additional evidence so taken, and shall file such modified or new findings, which, if supported by substantial evidence, shall be conclusive, and his recommendation, if any, for the modification or setting aside of the original order. Upon the filing of such petition, the jurisdiction of the court shall be exclusive and the judgment and decree, affirming, modifying, or setting aside, in whole or in part, any order of the Secretary, shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

(b) The commencement of proceedings under subsection (a) shall not, unless specifically ordered by the court, operate as a stay of the Secretary's order.

RELATION TO STATE LAWS

SEC. 13. "(a) This Act does not annul, alter, or affect, or exempt any person subject to the provisions of this Act from complying with, the laws of any State or local government with respect to condominium sales, except to the extent that those laws are inconsistent with any provision of this Act, and then only to the extent of the inconsistency. The Secretary is authorized to determine whether such, inconsistencies exist. The Secretary may not determine that any State or local law is inconsistent with any provision of this Act if the Secretary determines that such law gives greater protection to the consumer.

"(b) The Secretary may by regulation exempt from the requirements of this Act condominium sales within any State or local if he determines that under the law of that State or locality condominium sales are subject to requirements substantially similar to those imposed under this Act or that such law gives greater protection to the consumer, and that there is adequate provision for enforcement."

JURISDICTION OF OFFENSES AND SUITS

SEC. 14. (a) The district courts of the United States, the United States courts of any territory, and the United States District Court for the District of Columbia shall have jurisdiction of offenses and violations under this Act and under the rules and regulations prescribed by the Secretary pursuant thereto, and, concurrent with State courts, of all suits in equity and actions at law brought to enforce any liability or duty created by this Act. Any such suit or action may be brought to enforce any liability or duty created by this Act. Any such suit or action may be brought in the district wherein the defendant is found or is an inhabitant or transacts business, or in the district where the offer or sale took place, if the defendant participated therein, and process in such cases may be served in any other district of which the defendant is an inhabitant or wherever the defendant may be found. Judgments and decrees so rendered shall be subject to review as provided in sections 1254 and 1291 of title 28, United States Code. No case arising under this Act and brought in any State court of competent jurisdiction shall be removed to any court of the United States except where the United States or any officer or employee of the United States in his official capacity is a party. No costs shall be assessed for or against the Secretary in any proceeding under this Act brought by or against him in the Supreme Court or such other courts.

ADMINISTRATIVE PROVISIONS

SEC. 15. In order to carry out the provisions of this Act, the Secretary may establish such agencies, accept and utilize such voluntary and uncompensated services, utilize such Federal officers and employees and (with the

consent of the State involved) such State and local officers and employees, and appoint such other officers and employees as he may find necessary, and may prescribe their authorities, duties, and responsibilities. The Secretary may delegate any of the functions and powers conferred upon him under this section to such officers, agents, and employees as he may designate or appoint.

APPROPRIATIONS

SEC. 16. There are authorized to be appropriated such sums as may be necessary to carry out this Act.

EFFECTIVE DATE

SEC. 17. This Act shall take effect upon the expiration of six months after the date of its enactment.

By Mr. SCHWEIKER:

S. 4049. A bill to reduce interest rates and make additional credit available for essential economic activities. Referred to the Committee on Banking, Housing and Urban Affairs.

Mr. SCHWEIKER. Mr. President, I introduce today the Interest Reduction and Credit Priority Act of 1974, a bill which will establish a two-tier credit system, to insure that sacrifices required by tight money conditions are borne equally by all segments of our economy.

For too long, tight money has invariably meant hard times for the little man. Housing funds disappear first, and low- and middle-income housing is always hit hardest. Business expansion becomes too expensive, so jobs are eliminated. And while major financial powers can usually continue to borrow money at some price, many sectors of our economy are frozen out of the credit market at any price.

This does not make sense to me. If tight money is the right prescription to cure inflation—and I am not at all convinced that it is, Mr. President—we should have different rules for borrowers building swimming pools and gambling casinos than we have for those building low-income housing and vital productive capacity.

The need for legislation in this area has been widely recognized. The Congressman from Wisconsin, Mr. REUSS, has introduced H.R. 15709, which would allocate credit by fluctuating reserve requirements. My colleague from Minnesota, Senator MONDALE, has introduced a similar measure to Mr. REUSS' in the Senate.

Others have proposed allocating credit by means of subsidies or tax incentives, and the Federal Reserve Board has now adopted its own voluntary guidelines for credit allocation.

However, I would emphasize that the legislation I introduce today goes one step beyond credit allocation—my bill creates an entirely new two-tier credit system. Thus, it not only has a mandatory allocation feature, insuring that money will be available for priority purposes; it also mandates a 7 percent interest ceiling on priority loans, to insure that money for priority needs is available at reasonable rates.

My two-tier credit proposal has the following basic provisions:

First, the President shall authorize the Federal Reserve Board to issue rules and regulations, as provided by the Credit Control Act—Public Law 91-201 et seq.—to provide for the allocation of credit in a manner consistent with my bill.

Second, the regulations issued by the Federal Reserve Board shall require at least 50 percent of all credit extensions to be for defined essential economic activities, specifically housing and industrial expansion required to prevent scarcities, high prices or unemployment.

Third, the Federal Reserve Board must prescribe maximum interest rates, not to exceed 7 percent, for lending for such essential economic purposes.

Fourth, it should be emphasized that under the authority of the Credit Control Act, the regulations established by my bill may be applicable to all classes of creditors, so the impact will be equitably spread throughout our economy.

I ask unanimous consent that the full text of my bill be printed at this point in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 4049

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Interest Reduction and Credit Priority Act of 1974."

PRESIDENTIAL AUTHORITY

SEC. 2. The President shall exercise the authority conferred by the Credit Control Act to authorize the Board of Governors of the Federal Reserve System (hereinafter referred to as the "Board") to issue rules and regulations in accordance with the provisions of this Act.

ALLOCATION OF CREDIT

SEC. 3. Rules and regulations issued hereunder shall require that not less than 50 per centum of the principal amount involved in extensions of credit after the date of enactment of this Act by any creditor or class of creditors shall be made for any of the following purposes;

(1) The production of housing and related facilities for families of low and moderate income.

(2) The provision of capital for investment in plant and equipment where necessary to assure adequate supplies of essential goods or commodities.

(3) The provision of capital for investment necessary to prevent unemployment or inflationary prices.

(4) Such additional purposes as the Board determines to be appropriate in order to assure stable and balanced economic growth by the most efficient use of available credit.

MAXIMUM INTEREST RATES

SEC. 4. The Board shall prescribe one or more maximum rates of interest for transactions subject to section 3, but in no case shall interest be charged in connection with any such transaction at a rate in excess of 7 per centum per annum.

By Mr. MONTOYA:

S. 4050. A bill to establish a temporary special commission on Guadalupe-Hidalgo land rights. Referred to the Committee on the Judiciary.

Mr. MONTOYA. Mr. President, I am today introducing legislation to establish a temporary special commission to study and report on the land rights of descendants of land holders in the territories ceded to the United States by Mexico under the Treaty of Guadalupe-Hidalgo of 1848.

The controversy over these rights is not new. However, the deeply rooted feelings of bitterness and resentment among the approximately 11 million persons of Mexican-American descent is part of a growing disenchantment being expressed openly in many parts of the Nation, particularly in the Southwest. This is clearly manifest in emergence of protest groups making demands upon State and Federal Governments and upon "Anglo" communities.

The Government of the United States has been insensitive to this problem for many years. I think it is time for us to rethink the position of the Federal Government in this situation, to search out the history and record. If an injustice has been done, it is important that we right the wrong.

I would like to take this opportunity, Mr. President, to touch upon some of the history of the area concerned, and to explain to my colleagues the cultural and historical reasons for the resentment which so many Mexican-Americans feel.

For the Spanish and the Indian peoples who settled originally on the land which is now the Southwestern part of the United States, the land itself was of great importance. Land, for these people, was more than just a commodity to be bought and sold. It was truly a part of the individual and the family, a part of the culture and the life, and a part of the tradition which had grown for centuries in importance. When this land was taken away from them, these people felt that life and tradition had also been taken away. With the land loss came poverty and a loss of pride and family honor.

The Treaty of Guadalupe-Hidalgo, signed in 1848, and ratified that same year by the Congress, guaranteed the property and civil rights of the people who lived on the land ceded to the United States. Despite this commitment by the Federal Government, the privilege of community landgrant ownership was denied to these people, and in many cases their rights were abrogated. Injustices did occur. It was a period of rapid expansion, of many misunderstandings, and of discrimination against the Spanish-speaking people of the Southwestern States.

Certainly, lack of land ownership is not the only problem of the Mexican-American. Spanish-speaking citizens of the United States have historically been the victims of discrimination in almost every facet of their lives: In education, employment, housing, economic opportunities, and in the administration of justice. The confidence of these citizens in the fairness of our institutions is shaken. They doubt the sincerity of Government. Resentment and cynicism pervade their thinking.

In the last 10 years there has been a strong movement to eliminate discrimination for many groups in this Nation. The 1964 Civil Rights Act was designed to protect minorities and women from the kind of discrimination which has trag-

ically been a part of their lives for many years.

Great progress has been made in education, in employment, and in many other aspects of discrimination. However, nothing has ever been done to answer the questions which many Mexican Americans have pertaining to the rightful ownership of community land grants. The record is filled with case after case of gross abuse of the uneducated Spanish-speaking community by unscrupulous landgrabbers. In some cases, sadly, the landgrabber involved has been the Government.

Every attempt by the Spanish-speaking community to receive judicial or legislative review has failed. No attempt has ever been made to study the problem thoroughly.

Mr. President, if we are to fully restore the confidence of the Mexican-American citizen in the existence of equal justice under the law in the United States, we must take responsible action now. If certain lands have been wrongfully taken from these people, we must make amends.

The legislation I am introducing today would establish a Special Commission on Guadalupe-Hidalgo Land Rights. The Commission would analyze specific provisions of the treaty to determine, among other things:

First. What property rights of landholders, their heirs and descendants, were protected by the treaty;

Second. Whether those rights have been properly protected by the United States since 1848; and,

Third. The most equitable means for settling claims for these land grant rights.

The Commission will be asked to make interim reports to the Congress and the President, and to make a final report at the end of 18 months.

The purpose of this bill is not to dispossess those current legal landowners involved. Certainly those who have valid title to their property should not be concerned that the results of this study would endanger their ownership or the value of their land.

However, approximately 100 million acres of the land in question is presently public land, mainly that of the Federal Government. It is possible that some restitution could be made where public land is concerned. The recommendations of the Commission would undoubtedly speak to the question of alternate compensation for those who are judged to have been wrongfully deprived of their rights under this treaty. That compensation would do much to restore confidence in the system to those in the Mexican-American community who feel themselves to be ignored today.

We must breath new life into the concept of justice under law for the citizens of the United States who question its reality. We must find a way to prove to the Mexican-American citizen that his voice can be heard in an appeal to Government.

A public hearing on this question would allow the Nation to be fully informed about the position of all parties to this dispute, and would allow the members of the Commission to question members of the Mexican-American community face to face.

This is a national problem, Mr. President. It is a national disgrace that we have so long ignored the feelings of the second largest minority in this country.

I urge the support of my colleagues for this bill. I ask unanimous consent that the bill be printed in the RECORD following my remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 4050

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

ESTABLISHMENT OF COMMISSION

SECTION 1. There is established a temporary commission to be known as the Special Commission on Guadalupe-Hidalgo Land Rights (hereinafter referred to in this Act as the "Commission").

FINDINGS AND PURPOSE

SEC. 2. The Congress finds and declares that the property rights of persons living in territories ceded to the United States by Mexico pursuant to the Treaty of Guadalupe-Hidalgo, signed February 2, 1848, and the property rights of the heirs of such persons, are unclear. It shall be the purpose of the Commission to determine the nature and extent of such rights.

FUNCTIONS OF THE COMMISSION

SEC. 3. (a) The Commission shall make a comprehensive study and analysis of the provisions of the Treaty of Guadalupe-Hidalgo and shall determine—

(1) what property rights were vested by the treaty in private land holders and their heirs;

(2) whether those rights have been properly protected by the United States since 1848; and

(3) if the Commission finds that such rights have not been properly protected, the most equitable means of settling claims it deems meritorious.

(b) The Commission shall submit to the Congress and the President such interim reports as it deems advisable. Not later than 18 months after the date of enactment of this Act, the Commission shall submit to the Congress and the President a final report, together with such recommendations, as it deems advisable.

(c) The Commission shall cease to exist 60 days after the submission of its final report.

MEMBERSHIP OF COMMISSION

SEC. 4. (a) The Commission shall be composed of five members appointed by the President, at least one of whom shall be an heir or descendent of a Mexican citizen whose property rights were affected by the Treaty of Guadalupe-Hidalgo.

(b) Three members shall constitute a quorum, but a lesser number may conduct hearings. The chairman shall be selected by a majority of the members of the Commission.

(c) Members of the Commission shall, while serving on the business of the Commission, be entitled to receive compensation at a fixed rate by the Director of the Office of Management and Budget but not in excess of $125 per day, including traveltime; and while so serving away from their homes or regular places of business they may be allowed travel expenses, including per diem, as authorized by section 5703 of title 5, United States Code.

(d) All officers and employees of the Commission shall be subject to the provisions of sections 7324 through 7327 of title 5, United States Code, notwithstanding and exemption contained in such subsection.

POWERS AND ADMINISTRATIVE PROVISIONS

SEC. 5. (a) The Commission or, on the authorization of the Commission, any subcommittee thereof, may, for the purpose of carrying out the provisions of this Act, hold hearings, administer oaths for the purpose of taking evidence in any such hearings, take testimony, and receive documents and other matter. Any member authorized by the Commission may administer oaths or affirmations to witnesses appearing before a Commission, or any subcommittee thereof.

(b) Each department, agency, and instrumentality of the executive branch of the Federal Government shall furnish to the Commission, upon request made by the chairman, such information as the Commission deems necessary to carry out its functions under this Act.

(c) The Commission, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and general schedule pay rates, shall have the power—

(1) to appoint and fix the compensation of such personnel at it deems necessary;

(2) to procure the services of experts and consultants in accordance with section 3109 of such title; and

(3) to adopt such rules and regulations as it deems necessary to carry out this Act.

AUTHORIZATION OF APPROPRIATIONS

SEC. 6. There are authorized to be appropriated to the Commission such sums as may be necessary to carry out the provisions of this Act.

By Mr. TUNNEY (for himself and Mr. HART):

S. 4051. A bill to establish a research and development program within the Department of Commerce for alleviating shortages of products and materials in interstate commerce, and for other purposes. Referred to the Committee on Commerce.

PRODUCTS AND MATERIALS SHORTAGES RESEARCH AND DEVELOPMENT ACT OF 1974

Mr. TUNNEY. Mr. President, I am pleased to introduce today, on behalf of myself and Senator HART, the Products and Materials Shortages Research and Development Act of 1974.

Shortages of products and basic raw materials have become a major stumbling block to the national economic stability and well-being of us all. Shortages of one type or another have affected, and will continue to affect, our daily lives and institutions.

The consumer has probably been hit the hardest. Short supplies of fuel for home and transportation, food, and a myriad number of other consumer necessities have disrupted us and taken us seemingly by surprise. Even when consumer goods are available, prices have skyrocketed.

On the industrial side, which really is inseparable from shortages of consumer goods, the shortages are equally as acute. The basic factors of production such as energy supplies, metals, wood products, petrochemicals, and other materials have become increasingly scarce.

Congress has recognized that the structure of government and its ability adequately to monitor, predict, and deal with product and material shortages need

prompt revision. Both Houses have passed the National Commission on Supplies and Shortages Act of 1974, which is designed to facilitate more effective and informed responses to resource and commodity shortages. Final Presidential approval and appointment to the Commission can come none too soon.

But while we await the March 1 report of the Commission, we should not let our guard down and assume that our immediate task is finished. Congress must continue to seek legislative solutions to alleviate shortages and to develop a national materials policy. It is in this spirit that I introduce the Products and Materials Shortages Research and Development Act today.

It has become increasingly clear that the Nation's research and development efforts have not sufficiently stimulated the better utilization of products and materials to decrease waste, and to improve the means of expanding supplies as well.

The opportunities for research and development to improve materials technology and products are vast. For example, the National Commission on Materials Policy in its June 1973 report stated that losses in the United States due to corrosion and wear alone have been estimated to be $15 to $20 billion, respectively.

Another major opportunity lies in developing methods for something called nondestructive testing. This is a vastly improved method of checking the quality of fabricated parts so that their service life may be extended, product control may be improved during manufacturing, and materials may be saved by reducing the overdesign necessary to provide for margins of error now found in testing the quality of materials.

There is an urgent need to more fully understand the properties of materials such as metals and plastics in order to better understand how these characteristics relate to the uses to which these materials are put. Obviously, the composition, structure, and defects of a bridge girder are extremely important in determining how much steel goes into it. If designers were better able to predict what characteristics of a bridge girder were essential to its strength, the amount of materials consumed could be vastly reduced. To quote the Materials Policy Commission report:

> Some of these properties are affected profoundly by variations that are often too small to be detected with present techniques.

The National Commission on Materials Policy concluded that materials research and development must be high on the priorities list of a national materials policy.

The need for increased research and development in materials and products was also underscored by the Committee on the Survey of Materials Science and Engineering of the National Academy of Sciences. In a January 1974 report entitled, "Materials and Man's Needs," the NAS devoted a great deal of attention to the prospects of materials research for coping with materials shortages. The NAS lists numerous areas as priority problems, including corrosion, flammability of polymers, fracture mechanisms, and others. In short, the opportunities for materials research and development to alleviate shortages is nearly boundless.

One of the most readily accessible sources of raw materials for the Nation's products is our waste stream. While American industry is starving for supplies of raw materials, we are being virtually buried by our trash. Better design methods for the recovery and recycling of valuable materials from garbage and industrial waste must be found in order to fully utilize this neglected resource.

While we are on the brink of a very real crisis in materials and products scarcity, we must be encouraged by the possibilities that exist to expand supplies and reduce wasteful demand through an intensive research and development program.

The bill I introduce today is designed to stimulate product and materials research and development not only within Government but in the private sector as well. The bill requires the Secretary of Commerce, utilizing the National Bureau of Standards, to conduct an intensive research and development program.

The Secretary would publish a report, not later than 180 days after the enactment of the act, establishing research and development priorities with a twofold purpose. First, priorities would be established for those projects necessary to increase the supply of scarce products and materials. The full range of possible means to increase supply would be explored by the Secretary including the development of efficient production and processing methods, improvements in discovery, extraction, and refining techniques, and in the development of product improvement in order to eliminate transportation bottlenecks.

Second, the priority list would include those research and development projects designed to reduce excessive demand for scarce products and materials. The Secretary would consider research and development projects which would develop substitutes for scarce products and materials, processes which recover products and materials from waste, and means to develop increased durability, reliability, and repairability of scarce products and materials.

The research and development would be conducted by private entrepreneurs with financing provided by the Department of Commerce, and by scientists within the National Bureau of Standards as well.

A grant and contract program is provided as are loan guarantees as an alternative to outright grants or contracts.

In order to provide effective coordination with environmental and energy conservation efforts, the Administrator of the Environmental Protection Agency and the Administrator of the Federal Energy Administration would be given a 30-day opportunity to review proposed research and development programs for adverse effects. If either administrator objected, the Secretary of Commerce would be required to meet their objections to the maximum extent practicable.

Mr. President, I introduce the bill, for appropriate reference and ask unanimous consent that the text of the bill be printed at this point in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 4051

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, that this Act may be cited as the "Products and Materials Shortages Research and Development Act of 1974".

FINDINGS AND PURPOSES

SEC. 2. (a) FINDINGS—The Congress finds that—

(1) Shortages of products and materials are becoming increasingly frequent in the United States and such shortages are a major cause of inflation and result in substantial inconvenience and expense to consumers and a burden on interstate commerce and the nation's economy.

(2) Such shortages may result from a number of causes including inadequate supplies of raw materials, inefficient methods of production, inadequate utilization of potential performance levels, waste in utilization and disposal, and other factors affecting the supply and demand of such products and materials.

(3) The availability of such products and materials can be expanded through an intensive research and development program designed to develop new technology to improve methods of producing such products and materials; eliminate excessive demand for such products and materials by increasing performance levels improving techniques for non-destructive testing, and other methods of utilizing such products and materials more efficiently; and make such products and materials available at a reasonable cost. Such research and development projects may include, but shall not be limited to, improvements in production efficiency, the development of substitute products and materials, the development of technology to place greater reliance on renewable resources as opposed to non-renewable resources, improvements in the recycling and reuse of products and materials, the development of more durable and easily repairable products and materials, and greater efficiency in the discovery, extraction, and development of products and materials.

(4) Existing programs within the National Bureau of Standards of the Department of Commerce are designed to develop improved technology to reduce product and materials shortages, but are insufficient to meet the needs of the Nation and should be substantially increased in order to avoid duplication and to coordinate such research and development with governmental and private interests.

(5) The results of any research and development programs should be consistent with environmental and energy conservation goals and should not result in any other unreasonably deleterious side effects.

(b) PURPOSES.—It is the purpose of this Act to establish within the Department of Commerce, utilizing the National Bureau of Standards, a research and development program to alleviate existing and potential product and material shortages and to improve technology with respect to such products and materials. It is further the purpose of this Act to make the results of such program available to the American public on the broadest possible scale.

DEFINITIONS

SEC. 3. As used in this Act—

(1) "Product and material shortage" or "shortage of products and materials" refers to a market condition where any product, food, mineral, raw material or other commodity is not reasonably available to all users or can be acquired only at a price

which has increased significantly relative to the general price level.

(2) "Secretary" means the Secretary of Commerce.

DUTIES OF THE SECRETARY

SEC. 4. (a) IDENTIFICATION OF PRIORITIES.—(1) The Secretary shall, not later than 180 days after the enactment of this Act, compile and publish a report identifying existing and potential product and material shortages and those research and development projects which are most likely to substantially reduce such shortages and improve product and materials technology consistent with the provisions of this Act and in conformance with the provisions of paragraphs (2) and (3) of this subsection. Such report shall establish priorities for such projects in a manner which will be most beneficial in alleviating such shortages and otherwise accomplishing the purposes of this Act and shall give special attention to materials research and development. Such report may be revised from time to time.

(2) Such report shall list those research and development projects designed to alleviate existing or potential shortages of products and materials by expanding the supply of such products and materials and to otherwise improve product and materials technology to the extent that such improvements are related to expanding the supply of products and materials. Such projects may include, but shall not be limited to, improvements in—

(A) techniques for discovering, extracting, and refining raw materials necessary for the production and supply of such products and materials;

(B) the efficiency of producing, processing, and fabricating such products and materials; and

(C) the design or other characteristics of such products and materials and the containerization or packaging thereof to the extent that such improvements will reduce or eliminate limiting factors relating to the transportation, distribution, or storage of such products and materials.

(3) Such report shall also list those research and development projects designed to alleviate shortages of products and materials by reducing the demand for such products and materials and to otherwise improve product and materials technology to the extent that such improvements are related to reducing the demand for products and materials. Such projects may include, but shall not be limited to the development of—

(A) substitutes for such products and materials including the substitution of renewable for non-renewable resources;

(B) processes which recover such materials and products from industrial and consumer waste, including the recycling and reuse of such materials and products;

(C) means to increase the durability, reliability, and repairability of such products and materials; and

(D) more efficient and less costly factors of production of such products and materials.

(b) RESEARCH AND DEVELOPMENT.—The Secretary is authorized and directed to conduct research and development in accordance with the priorities established under subsection (a) of this section. In furtherance of that goal and to promote such research and development by private interests, the Secretary is further authorized and directed to—

(1) make grants and contracts for research and development in accordance with section 6 of this Act;

(2) make loan guarantees for research and development in accordance with section 7 of this Act;

(3) conduct and accelerate research and development programs within the National Bureau of Standards;

(4) collect, analyze, and disseminate to the public information, data, and materials relevant to the conduct of research and development under this Act;

(5) examine and evaluate any reasonable new technology, a description of which is submitted to him in writing, which could lead to the furtherance of the purposes of this Act.

POWERS OF THE SECRETARY

SEC. 5. In addition to the powers specifically enumerated in any other provision of this Act, the Secretary is authorized to—

(a) in accordance with Federal laws relating to the civil service, appoint such attorneys, employees, agents, consultants, and other personnel as he deems necessary; define the duties of such personnel; determine the amount of compensation and other benefits for the services of such personnel; and pay them accordingly;

(b) procure temporary and intermittent services to the same extent as is authorized under section 3109 of title 5, United States Code, but at rates not to exceed $150 a day for qualified experts;

(c) obtain the assistance of any department, agency, or instrumentality of the executive branch of the Federal Government upon written request, on a reimbursable basis or otherwise, identifying the assistance he deems necessary to carry out his duties under this Act, including, but not limited to, transfer of personnel with their consent and without prejudice to their position and rating;

(d) enter into, without regard to section 3709 of the Revised Statutes, as amended (41 U.S.C. 5), such contracts, leases, cooperative agreements, or other transactions with any government agency or any person as may be necessary in the conduct of his duties under this Act; and

(e) purchase, lease, or otherwise acquire, improve, use or deal in and with any property; sell, mortgage, lease, exchange, or otherwise dispose of any property or other assets.

GRANTS

SEC. 6. (a) GENERAL.—(1) The Secretary shall provide funds by grant or contract to initiate, continue, supplement, and maintain research and development programs or activities described under section 4 of this Act.

(2) The Secretary is authorized to make such grants, and contracts with any laboratory, university, non-profit organization, industrial organization, Federal or other public or private agency, institution, organization, corporation, partnership, or individual.

(b) CONSULTATION.—The Secretary, in the exercise of his duties and responsibilities under this section, shall establish procedures for periodic consultation with representatives of science, industry, and such other groups as may have special expertise concerning shortages of or technological improvements concerning products and materials. The Secretary is authorized to establish any advisory panel to review and make recommendations to him on applications for funding under this section.

(c) PROCEDURE.—Each grant or contract under this section shall be made in accordance with such rules and regulations as the Secretary shall prescribe in accordance with the provisions of this section and in conformance with section 2 of this Act. Each application for funding shall be made in writing in such form and with such content and other submissions as the Secretary shall reasonably require.

(d) EXCEPTION.—No grant or contract shall be made under this section by the Secretary unless he finds that no other means of financing or re-financing, including a loan guarantee under section 7 of this Act, is reasonably available to the applicant.

LOAN GUARANTEES

SEC. 7. (a) GENERAL.—(1) The Secretary is authorized, in accordance with the provisions of this section and such rules and regulations as he shall prescribe, to guarantee and to make commitments to guarantee the payment of interest on and the principal balance of, and obligation to initiate, continue, supplement, and maintain research and development programs or activities described under section 4 of this Act: *Provided*, That the outstanding indebtedness guaranteed under this section shall not exceed ——: And provided further, that no guarantee or commitment to guarantee shall be undertaken under this section after June 30, 1977. Each application for such a loan guarantee shall be made in writing to the Secretary in such form and with such content and other submissions as the Secretary shall prescribe to reasonably protect the interests of the United States. Each guarantee and commitment to guarantee shall be extended in such form, under such terms and conditions, and pursuant to such regulations as the Secretary deems appropriate. Each guarantee and commitment to guarantee shall inure the benefit of the holder of the obligation to which such guarantee or commitment applies. The Secretary is authorized to approve any modification of any provision of a guarantee or a commitment to guarantee such an obligation, including the rate of interest, time of payment of interest or principal, security, or any other terms or conditions upon a finding by the Secretary that such modification is equitable and not prejudicial of the interest of the United States and has been consented to by the holder of such obligation.

(2) The Secretary is authorized to so guarantee and to make such commitments to any Federal agency, laboratory, university, nonprofit organization, industrial organization, public or private agency, institution, organization, corporation, partnership, or individual.

(b) EXCEPTION.—No obligation shall be guaranteed by the Secretary under subsection (a) of this section unless he finds that no other reasonable means of financing or refinancing is reasonably available to the applicant.

(c) CHARGES.—(1) The Secretary shall charge and collect such amounts as he may deem reasonable for the investigation of applications for a guarantee, for the appraisal of properties offered as security for a guarantee, or for the issuance of commitments.

(2) The Secretary shall set a premium charge of not more than 1 per centum per annum for a loan or other obligation guaranteed under this section.

(d) VALIDITY.—No guarantee or commitment to guarantee an obligation entered into by the Secretary shall be terminated, canceled, or otherwise revoked, except in accordance with reasonable terms and conditions prescribed by the Secretary. Such a guarantee or commitment to guarantee shall be conclusive evidence that the underlying obligation is in compliance with the provisions of this section and that such obligation has been approved and is legal as to principal, interest, and other terms. Such a guarantee or commitment shall be valid and incontestable in the hands of a holder as of the date when the Secretary entered into the contract of guarantee or commitment to guarantee, except as to fraud, duress, mutual mistake of fact, or material misrepresentation by or involving such holder.

(e) DEFAULT AND RECOVERY.—(1) If there is a default in any payment by the obligor of interest or principal due under an obligation guaranteed by the Secretary under this section and such default has continued for sixty days, the holder of such obligation or his agents have the right to demand payment by the Secretary of such unpaid amount.

Within such period as may be specified in the guarantee or related agreements, but not later than forty-five days from the date of such demand, the Secretary shall promptly pay to the obligee or his agent the unpaid interest on and unpaid principal of the obligation guaranteed by the Secretary as to which the obligor has defaulted, unless the Secretary finds that there was no default by the obligor in the payment of interest or principal or that such default has been remedied.

(2) If the Secretary makes a payment under paragraph (1) of this subsection, he shall have all rights specified in the guarantee or related agreements with respect to any security which he held with respect to the guarantee of such obligation including, but not limited to, the authority to complete, maintain, operate, lease, sell, or otherwise dispose of any property acquired pursuant to such guarantee or related agreements.

(3) If there is a default under any guarantee or commitment to guarantee an obligation, the Secretary shall notify the Attorney General who shall take action against the obligator or any other parties liable thereunder as is, in his discretion, necessary to protect the interest of the United States. The holder of such obligation shall make available to the United States all record and evidence necessary to prosecute any such suit.

CERTIFICATION

SEC. 8. Prior to making any financial assistance available under this Act to any person for a research and development project or prior to making any commitment to conduct any research and development project under this Act within the Department of Commerce, the Secretary shall afford an opportunity to the Administrator of the Environmental Protection Agency and the Administrator of the Federal Energy Administration an opportunity, not to exceed 30 days, to review such project. If, as a result of such review, (i) the Administrator of the Environmental Protection Agency determines that there is reason to believe that such research and development project, or the expected result thereof, will result in any unreasonable risk to environmental values, or (ii) if the Administrator of the Federal Energy Administration determines that there is reason to believe that such project, or the expected result thereof, will result in any unreasonable consumption of scarce energy resources, the Secretary shall, to the maximum extent practicable, modify such project in a manner designed to eliminate any such determination.

PROPRIETARY INFORMATION AND PATENTS

SEC. 9. (a) AVAILABILITY.—Whenever, pursuant to this Act, the Secretary enters into any agreement contracting for, sponsoring, or cosponsoring any research or development, he shall require as a condition of such Federal participation under this Act that all information—whether patented or unpatented, in the form of trade secrets, know-how, proprietary information, or otherwise—processes, or patents resulting in whole or in substantial part from such federally-assisted research or development shall be available to the general public, pursuant to subsection (b) of this section.

(b) PROTECTION OF RIGHTS.—(1) Any such agreement must provide that all such information, processes, or patents be available to any qualified applicant on reasonable and nondiscriminatory license terms approved by the Secretary consistent with the purposes of this Act when the research or development project reaches the stage of commercial application as determined by the Secretary: *Provided*, That if such information, processes, or patents results in whole from financial assistance granted under this Act, such agreement may require, at the discretion of the Secretary, that such information, processes, or patents become the property of the United States and be dedicated to the general public.

(2) Whenever a participant in a research or development project, under this Act, holds background patents, trade secrets, know-how, proprietary information, or any other information, hereafter collectively referred to in this section as "background", which will be employed in and are requisite to the proposed research or development project, the agreement shall further provide that all background will be made available to any qualified applicant on reasonable and nondiscriminatory license terms approved by the Secretary, consistent with the purposes of this Act.

(3) Any such license terms referred to under this subsection shall take into account the extent to which the commercial viability of the total process or system was achieved with assistance under this Act (and whether such assistance was in the form of grants or obligation guarantees) and shall appropriately protect the interests of the participants.

(c) EFFECT ON COMPETITION.—The Secretary shall, in approving license terms, duly consider the effects of such terms on competitions within the United States.

RECORDS, AUDIT, AND EXAMINATION

SEC. 10. (a) RECORDS.—Each recipient of financial assistance or guarantees under this Act, whether in the form of grants, subgrants, contracts, subcontracts, obligation guarantees, or other arrangements shall keep such records as the Secretary shall prescribe, including records which fully disclose the amount and disposition by such recipient of the proceeds of such assistance, the total cost of the project or undertaking in connection with which such assistance was given or used, the amount of that portion of the cost of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit.

(b) AUDIT AND EXAMINATION.—The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall, until the expiration of three years after completion of the project or undertaking referred to in subsection (a) of this section, have access for the purpose of audit and examination to any books, documents, papers, and records of such receipts which in the opinion of the Secretary or the Comptroller General may be related or pertinent to the grants, subgrants, contracts, subcontracts, obligation guarantees, or other arrangements referred to in such subsection.

REPORTS

SEC. 11. On or before August 1 of each year, the Secretary shall submit to Congress an annual report of activities under this Act. Such report shall include a description of the research and development conducted pursuant to this Act and the progress made in accomplishing the purposes of this Act.

RELATIONSHIP TO ANTITRUST LAWS

SEC. 12. (a) DISCLAIMER.—Nothing herein shall be deemed to convey to any individual, corporation, or other business organization immunity from civil or criminal liability or to create defenses to actions under the antitrust laws.

(b) ANTITRUST LAWS DEFENDED.—As used in this section, the term "antitrust laws" includes the Act of July 2, 1890 (ch. 647, 26 Stat. 209), as amended; the Act of October 15, 1914 (ch. 323, 38 Stat. 730) as amended; the Federal Trade Commission Act (38 Stat. 717), as amended; sections 73 and 74 of the Act of August 27, 1894 (28 Stat. 570), as amended; the Act of June 19, 1936 (ch. 592, 49 Stat. 1526), as amended."

AUTHORIZATION FOR APPROPRIATIONS

SEC. 13. (a) GENERAL.—There is hereby authorized to be appropriated to carry out the purposes of this Act, other than section 7 of this Act not to exceed ——— for the fiscal year ending June 30, 1974, not to exceed ——— for the fiscal year ending June 30, 1976, and not to exceed ——— for the fiscal year ending June 30, 1977.

(b) LOAN GUARANTEES.—There are hereby authorized to be appropriated to the Secretary not to exceed ——— to pay the interest on, and the principal balance of, any obligation guaranteed by the Secretary under section 7 of this Act as to which the obligor has defaulted.

By Mr. HARTKE:

S. 4052. A bill to amend the Internal Revenue Code of 1954 to provide a refundable credit against tax for postsecondary education expenses for tuition and fees paid by the taxpayer attributable to the attendance of a student at an institution of postsecondary education, and for other purposes. Referred to the Committee on Finance.

GUARANTEED POSTSECONDARY EDUCATION FOR AMERICANS ACT

Mr. HARTKE. Mr. President, today I introduce legislation which, when enacted, will guarantee every American a full opportunity to receive as much education as he or she desires. Through a $1,200 tax credit—or a tax refund if there is no tax liability—for tuition and fees, every student can be assured of full educational opportunity.

Mr. President, as I introduce this legislation, I am contemplating its effect on American society not only in the seventies and eighties, but also the effect it will have on the direction of our country in the 21st century.

Two hundred years ago, men of vision saw in education the opportunity to build a foundation for democracy. One hundred and fifty years ago, the people of my home State of Indiana translated that vision into the words of their constitution when they said:

> It shall be the duty of the General Assembly, as soon as circumstances permit, to provide, by law, for a general system of education, ascending in a regular gradation, from township schools to a state university, *wherein tuition shalll be gratis, and equally open to all.* (italics added)

Mr. President, it is time that circumstances did permit every American to have full access to postsecondary education. That is the purpose of my proposal.

With the establishment of an industrial society by the beginning of the 20th century, our attention has been focused on the need to provide full utilization of our labor force. By the end of this century, only 15 percent of our labor force will be utilized in the production of goods and the cultivation of food. Eighty-five percent of the labor force will be composed of people providing services. The children being born today are the children of the 21st century. It is not idle futurism to think of the world in which they will live, for that world is less than a generation away. We must plan for their education now.

Having said this, it is also worth noting that the direction which an individual takes in life is often dependent on the education opportunities available to him. Likewise, the direction a society takes depends to a large extent on the educational opportunities it affords its people. We cannot afford to ignore the need for individual creativity and productivity

when we consider increasing educational opportunities, nor can we ignore the needs of those who are presently unable to pursue their education after high school. In short, any effort to increase educational opportunity must take account of those factors which presently inhibit the fullest possible education within our society. Unless we expand education to its widest horizons, we doom our society to all too narrow goals.

With these thoughts in mind, my legislation encompasses the widest possible participation by all those who are interested in furthering their education. It includes part-time students, professionals, those seeking new skills and proficiencies, and those pursuing advanced study. And because I am convinced that the 21st century will demand both the general and special knowledge which is provided by a wide variety of institutions, my bill gives consideration to community colleges and private schools.

The hard fact is that the cost of a college education these days is pricing more and more young people out of the market. We have adopted legislation to assist those from low-income families to pursue postsecondary education, but it is the children from middle income backgrounds who now need our attention. Often, it is these people who are being squeezed out of the postsecondary education market by skyrocketing tuition costs.

The cost of postsecondary education is rising at a rapid rate. Between 1973–74 and 1974–75, the increase at public 2-year colleges was an inflationary 15.4 percent. At private 2-year schools, the rate was even higher: 27.3 percent. The increase at public 4-year colleges was 17.5 percent, and at private 4-year institutions, it was 16.5 percent. These are increases the poor and middle income families cannot afford. They are increases that will result in a lessening of educational quality in our society.

In an effort to decrease the impact of inflation on postsecondary education, my legislation limits increased tuition costs over the 1974–75 year allowable under the credit to an adjustment no greater than the annual price index percentage.

In addition, my proposal provides a tax credit of up to $1,200 which may be applied only to actual academic tuition and fee payments, not to room, board, social, and other noneducational costs. A taxpayer may claim a credit against his tax liability for the costs of tuition and academic fees at an accredited postsecondary educational institution. If the taxpayer has no tax liability, he is entitled to a refund. The taxpayer may take this credit for expenses which he has paid toward the education of his or her spouse or dependent children.

The credit allowed is based on a formula of 80 percent of the first $500 of expenses, 60 percent of the expenses between $500 and $1,000, and 40 percent of expenses between $1,000 and $2,250, with a maximum allowable credit of $1,200. The allowable credit can be increased as the Department of Labor's annual price index increases.

Not only may a parent claim the credit, but a student who works while attending a postsecondary educational institution will be allowed to claim the credit against his own tax liability. Either the parent or the dependent will be allowed to claim the credit, but not both.

My bill provides relief when educational expenses are due. Many institutions require payments of tuition prior to enrollment. My proposal, therefore, permits the taxpayer to file an amended return with the Internal Revenue Service and receive the allowed credit prior to the required payment to the institution. Further, provisions are included which provide for the direct payment of the allowable credit by the Treasury to the educational institution. In this way, full educational opportunity is guaranteed.

Mr. President, a June 3 article in U.S. News & World Report states:

> Another year of scrimping and scrapping to make ends meet is in prospect for hundreds of American colleges and universities. . . . Some hard-pressed schools are wondering whether they will be able to make it through another academic year.

For many of our fine educational institutions, time is growing short. Solutions to their economic plight must be found or we will soon find that the doors to educational opportunity have been shut. Unless we act now, there simply will not be sufficient educational institutions to provide opportunity for our people.

So, Mr. President, we must now preserve the institutions both public and private that are providing vital educational services to our country. My legislation provides the long overdue first step of guaranteeing to the student the educational opportunity which was the vision of our Founding Fathers and which was the commitment of States such as Indiana 150 years ago.

In previous years, I have sponsored legislation providing for loans and grants to students in need of financial assistance. The bill I offer today recognizes that the vast majority of students are in need of financial assistance. For their sake, and for the sake of the future of our great Nation, we must provide that assistance now.

Mr. President, I ask unanimous consent that the text of my legislation be printed at this point in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 4052

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Guaranteed Post Secondary Education for Americans Act."

That subpart A of part IV of subchapter 1 of the Internal Revenue Code of 1954 (relating to credits allowed) is amended by renumbering section 42 as 43, and by inserting after section 41 the following new section:

"SEC. 42. POST-SECONDARY EDUCATION EXPENSES.

"(a) GENERAL RULE.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year, an amount equal to the amount of post-secondary education expenses paid by the taxpayer during the taxable year which are attributable to the attendance of any individual as a student at an institution of post-secondary education.

"(b) LIMITATIONS.—

"(1) ONE TAXPAYER PER STUDENT.—With respect to post-secondary education expenses attributable to the attendance of one individual as a student at an institution of post-secondary education, the credit allowed under subsection (a) shall be allowed to only one taxpayer each taxable year to the extent such taxpayer pays such expenses attributable to such student during that year.

"(2) AMOUNT PER STUDENT.—The credit allowed under subsection (a) for post-secondary education expenses attributable to one student shall not exceed—

"(A) 80 percent of the amount of such expenses which does not exceed $500;

"(B) 60 percent of the amount of such expenses which is greater than $500 but does not exceed $1,000; and

"(C) 40 percent of the amount of such expenses which is greater than $1,000 but does not exceed $2,250. As soon after the end of each calendar year as the necessary data become available from the Bureau of Labor Statistics of the Department of Labor, the Secretary of Labor shall report to the Secretary or his delegate the percentage difference, if any, between the price index for such calendar year and the price index for calendar year 1974. Each dollar amount in paragraph (2) of this subsection shall be changed by an amount corresponding to the percentage difference in price indices reported to the Secretary or his delegate and, as changed, shall be the limitation in effect for the calendar year during which such report is made. For purposes of this paragraph, the term 'price index' means the average over a calendar year of the Consumer Price Index (all items—United States city average) published monthly by the Bureau of Labor Statistics.

"(c) DEFINITIONS.—For purposes of this section—

"(1) POST-SECONDARY EDUCATION EXPENSES.—

"(A) GENERAL RULE.—The term 'post-secondary education expenses' means amounts paid for tuition and fees for enrollment or attendance at an institution of post-secondary education, or for accredited courses of instruction at such an institution, and

"(B) LIMITATIONS.—

"(i) The amount of post-secondary education expenses attributable to the attendance of an individual as a student at an institution of post-secondary education during any taxable year shall be reduced for purposes of computing the credit allowed by subsection (a) by one-half the amount received by such student during such year as a scholarship or fellowship grant (within the meaning of section 117(a)(1)) which, under section 117, is not includable in gross income.

"(ii) The term 'post-secondary education expenses' does not include any amount paid during a calendar year for tuition and fees for enrollment and attendance of a student at an institution of post-secondary education which exceeds the amount such institution charged as tuition and fees during the calendar year 1974 (as adjusted under this clause). The amount to which tuition and fees are limited under the first sentence of this clause shall be changed by an amount corresponding to the percentage difference in price indices reported to the Secretary or his delegate under subsection (b)(2) and, as changed, shall be the limitation in effect for the calendar year for which reported.

"(2) STUDENT.—The term 'student' means an individual who has been admitted and is or will attend an institution of post-secondary education on a full- or part-time basis leading toward a degree, diploma or certificate.

"(3) INSTITUTION OF POST-SECONDARY EDUCATION.—The term 'institution of post-secondary education' means those institutions

approved by the Commissioner of Education for purposes of this section under rules prescribed by the Commissioner and certified by him to the Secretary or his delegate.

"(4) ACCREDITED COURSE OF INSTRUCTION.—The term 'accredited course of instruction' means a course of instruction for which credit is allowed by an institution of post-secondary education.

"(d) ELECTION TO APPLY CREDIT TO PRECEDING YEAR.—

"(1) IN GENERAL.—At the election of the taxpayer (made at such time and in such manner as the Secretary or his delegate prescribes by regulations), the credit allowable under subsection (a) for any taxable year (based on the post-secondary education expenses which the taxpayer has paid and reasonably expects to pay during the taxable year) shall be allowed as a credit against the tax imposed by this chapter for the preceding taxable year.

"(2) OVERESTIMATES.—If the amount of the credit allowed for a preceding taxable year by reason of an election made under paragraph (1) is greater than the amount of credit which is allowable for the taxable year (based on the post-secondary education expenses paid by the taxpayer during the taxable year), such excess shall be treated as an underpayment of tax for the taxable year in which such expenses are paid.

"(3) UNDERESTIMATES.—If the amount of the credit which is allowable for the taxable year (based on the post-secondary education expenses paid by the taxpayer during the taxable year) is greater than the credit allowed for the preceding taxable year by reason of an election made under paragraph (1), such excess shall be allowed as an additional credit under subsection (a) for the taxable year in which such expenses are paid.

"(e) DISALLOWANCE OF EXPENESE AS DEDUCTION.—No deduction shall be allowed under section 162 (relating to trade or business expenses) for any amount of post-secondary education expenses which (after the application of subsection (b)) is taken into account in determining the amount of any credit allowed under subsection (a). The preceding sentence shall not apply to the post-secondary education expenses of any taxpayer who, under regulations prescribed by the Secretary or his delegate, elects not to apply the provisions of this section with respect to such expenses for the taxable year.

"(f) REGULATIONS.—The Secretary or his delegate shall prescribe such regulations as are necessary to carry out the provisions of this section.".

(c) The table of sections for such subpart is amended by striking out the last item and inserting in lieu thereof the following: "Sec. 42. Post-secondary education expenses. "Sec. 43. Overpayment of tax.".

(d) Section 6201 (a) (4) of such Code (relating to assessment authority) is amended by—

(1) inserting "or 42" after "section 39" in the caption of such section; and

(2) striking out "oil)," and inserting in lieu thereof "oil) or section 42 (relating to tax credit for post-secondary education expenses),".

(e) Section 6401(b) of such Code (relating to excessive credits) is amended by—

(1) inserting after "lubricating oil)" the following: ", and 42 (relating to tax credit for post-secondary education expenses),"; and

(2) striking out "sections 31 and 39" and inserting in lieu thereof "sections 31, 39, and 42".

(f) Section 6402 of such Code (relating to authority to make credits or refunds) is amended by adding at the end thereof the following new subsection:

"(c) Post-secondary education credit refund.—Subject to the provisions of subsections (a) and (b), any amount of the credit allowed under section 42(d) (relating to post-secondary education expenses) which is considered an overpayment under section 6401(b) shall be paid to the institution of post-secondary education to which the taxpayer intends to pay post-secondary education expenses for which the credit is allowed."

(g) The amendments made by this section apply to taxable years beginning after December 31, 1974.

By Mr. PELL:

S. 4053. A bill to establish a commission to study rules and procedures for the disposition and preservation of records and documents of Federal officials. Referred to the Committee on Government Operations.

PUBLIC DOCUMENTS ACT

Mr. PELL. Mr. President, I am introducing legislation today aimed at providing a proper answer to the problem of the disposition and preservation of the records and other pertinent documents of present and former Government officials.

I view with the greatest concern the agreement reached between President Ford and former President Nixon regarding the tapes which recorded highly important portions of his administration's history. We are considering now in the Congress how best to resolve the questions surrounding the disposition of those tapes, and I fully support the concept of taking action to preserve these records, so that they will not be destroyed, and so that they will be available for historic research in the future.

We should, however, have some long-range planning in this most important subject area. We need to think not only of the immediate time ahead, but of a more distant future.

We need to formulate policies to meet future events, and to insure that the records of present and former public officials be appropriately maintained and preserved.

In this effort I am very pleased to be joining with the distinguished Congressman from Indiana, Representative JOHN BRADEMAS, who has taken initiative with this legislation in the House of Representatives.

It would establish a 14-member commission to undertake a comprehensive study of this whole question.

The commission would include four Members of Congress, two from the Senate and two from the House. It would also include appointees of the President, of the Chief Justice of the Supreme Court, of the Secretary of State, of the Secretary of Defense, of the Attorney General, and the Administrator of General Services, plus a leading historian and a leading archivist.

The Commission would report to the President and to the Congress by December 31, 1975.

Mr. President, I ask unanimous consent that the text of this legislation be printed in the RECORD at the conclusion of my remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 4053

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Public Documents Act".

SEC. 2. Chapter 33 of title 44, United States Code, is amended by adding at the end thereof the following new sections:

"DEFINITIONS

"SEC. 3315. For purposes of section 3316 through section 3324—

"(1) the term "Federal office" means the office of President or Vice President of the United States, or Senator or Representative in, or Delegate or Resident Commissioner to, the Congress of the United States; and

"(2) the term "Commission" means the National Study Commission on Federal Records and Papers of Elected Officials.

"(3) the term "records and documents" shall include handwritten and typewritten documents, motion pictures, television tapes and recordings, magnetic tapes, automated data processing documentation in various forms, and other records that reveal the history of the nation.

"ESTABLISHMENT OF COMMISSION

"SEC. 3316. There is established a commission to be known as the National Study Commission on Federal Records and Documents of Federal Officials.

"DUTIES OF COMMISSION

"SEC. 3317. It shall be the duty of the Commission to study problems and questions with respect to the control, disposition, and preservation of records and documents produced by or on behalf of individuals holding Federal office and officers of the Federal Government, with a view toward the development of appropriate legislative recommendations and other appropriate rules and procedures with respect to such control, disposition, and preservation. Such study shall include consideration of—

"(1) whether the historical practice of regarding the records and documents produced by or on behalf of Presidents of the United States should be rejected or accepted and whether such policy should be made applicable with respect to individuals holding Federal office and of officers of the Federal Government, including Members of the Congress and members of the Federal judiciary;

"(2) the relationship of such conclusions and findings to the provisions of section 1901 through section 1914 and section 2101 through section 2108 of title 44, United States Code, and other Federal laws regarding the disposition and preservation of papers of elected or appointed officials;

"(3) whether such findings and conclusions should affect the control and disposition of records and documents of agencies within the Executive Office of the President created for short-term purposes by the President;

"(4) the recordkeeping procedures of the White House Office, with a view toward establishing means to determine which papers and documents are produced by or on behalf of the President of the United States;

"(5) the nature of rules and procedures which should apply to the control, disposition, and preservation of papers and documents produced by Presidential task forces, commissions, and boards;

"(6) criteria which may be used generally in determining the scope of materials which should be considered to be the papers and documents of individuals holding Federal office; and

"(7) any other problems, questions, or issues which the Commission considers relevant to carrying out its duties under section 3315 through section 3324.

"MEMBERSHIP

"SEC. 3318. (a) (1) The Commission shall be composed of 14 members as follows—

"(A) one Member of the House of Representatives appointed by the Speaker of the

House upon recommendation made by the majority leader of the House;

"(B) one Member of the House of Representatives appointed by the Speaker of the House upon recommendation made by the minority leader of the House;

"(C) one Member of the Senate appointed by the President of the Senate upon recommendation made by the majority leader of the Senate;

"(D) one Member of the Senate appointed by the President of the Senate upon recommendation made by the minority leader of the Senate;

"(E) one Justice of the Supreme Court, appointed by the Chief Justice of the Supreme Court;

"(F) three appointed by the President, by and with the advice and consent of the Senate, from persons who are not officers or employees of any government who are specially qualified to serve on the Commission by virtue of their education, training, or experience;

"(G) one representative of the Department of State, appointed by the Secretary of State;

"(H) one representative of the Department of Defense, appointed by the Secretary of Defense;

"(I) one representative of the Department of Justice, appointed by the Attorney General;

"(J) the administrator of General Services (or his delegate);

"(K) one member of the American Historical Association, appointed by the counsel of such Association; and

"(L) one member of the Society of American Archivists, appointed by such Society.

"(2) No more than 2 members appointed under paragraph (1)(F) may be of the same political party.

"(b) A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

"(c) If any member of the Commission who was appointed to the Commission as a Member of the Congress leaves such office, or if any member of the Commission who was appointed from persons who are not officers or employees of any government becomes an officer or employee of a government, he may continue as a member of the Commission for no longer than the 60-day period beginning on the date he leaves such office or becomes such an officer or employee, as the case may be.

"(d) Members shall be appointed for the life of the Commission.

"(e)(1) Members of the Commission who are full-time officers or employees of the United States or Members of the Congress shall receive no additional pay on account of their services on the Commission.

"(2) While away from their homes or regular places of business in the performance of services for the Commission, members of the Commision shall be allowed travel expenses in the same manner as persons employed intermittently in the service of the Federal Government are allowed expenses under section 5703(b) of title 5, United States Code, except that per diem in lieu of subsistence shall be paid only to those members of the Commission who are not full-time officers or employees of the United States or Members of the Congress.

"(f) The chairman of the Commission shall be designated by the President from among members appointed under subsection (a)(1)(F).

"(g) The Commission shall meet at the call of the chairman or a majority of its members.

"DIRECTOR AND STAFF; EXPERTS AND CONSULTANTS

"SEC. 3319. (a) The Commission shall appoint a director who shall be paid at a rate not to exceed the rate of basic pay in effect for level V of the Executive Schedule (5 U.S.C. 5316).

"(b) The Commission may appoint and fix the pay of such additional personnel as it deems necessary.

"(c)(1) The Commission may procure temporary and intermittent services to the same extent as is authorized by section 3109(b) of title 5, United States Code, but at rates for individuals not to exceed the daily equivalent of the annual rate of basic pay in effect for grade GS-15 of the General Schedule (5 U.S.C. 5332).

"(2) In procuring services under this subsection, the Commission shall seek to obtain the advice and assistance of constitutional scholars and members of the historical, archival, and journalistic professions.

"(d) Upon request of the Commission, the head of any Federal agency is authorized to detail, on a reimbursable basis, any of the personnel of such agency to the Commission to assist it in carrying out its duties under section 3315 through 3324.

"POWERS OF COMMISSION

"SEC. 3320. (a) The Commission may, for the purpose of carrying out its duties under section 3315 through 3324, hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence, as the Commission may deem desirable.

"(b) When so authorized by the Commission, any member or agent of the Commission may take any action which the Commission is authorized to take by this section.

"(c) The Commission may secure directly from any department or agency of the United States information necessary to enable the Commission to carry out its duties under section 3315 through section 3324. Upon request of the chairman of the Commission, the head of such department or agency shall furnish such information to the Commission.

"SUPPORT SERVICES

"SEC. 3321. (a) The Administrator of General Services shall provide to the Commission on a reimbursable basis such administrative support services and assistance as the Commission may request.

"(b) The Librarian of Congress and the Archivist of the United States shall provide to the Commission on a reimbursable basis such technical and expert advice, consultation, and support assistance as the Commission may request.

"REPORT

"SEC. 3322. The Commission shall transmit to the President and to each House of the Congress a report not later than December 31, 1975. Such report shall contain a detailed statement of the findings and conclusions of the Commission, together with its recommendations for such legislation, administrative actions, and other actions, as it deems appropriate.

"TERMINATION

"SEC. 3323. The Commission shall cease to exist 60 days after transmitting its report under section 3322.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 3324. There is authorized to be appropriated such sums as may be necessary to carry out section 3315 through section 3324."

SEC. 3. The table of sections for chapter 33 of title 44, United States Code, is amended by adding at the end thereof the following new items:

"3315. Definitions.
"3316. Establishment of Commission.
"3317. Duties of Commission.
"3318. Membership.
"3319. Director and Staff of Experts and Consultants.
"3320. Powers of Commission.
"3321. Support Services.
"3322. Report.
"3323. Termination.
"3324. Authorization of Appropriations."

ADDITIONAL COSPONSORS OF BILLS AND JOINT RESOLUTIONS

S. 919

At the request of Mr. GURNEY, the Senator from Colorado (Mr. DOMINICK) was added as a cosponsor of S. 919, a bill to amend title XVIII of the Social Security Act to permit certain individuals, who have attained age 60 but not age 65 and who are entitled to widow's or widower's insurance benefits or are the wives or husbands of persons entitled to hospital insurance benefits, to obtain in consideration of the payment of insurance premiums, coverage under the insurance programs established by such title.

S. 1613

At the request of Mr. METCALF, the Senator from Ohio (Mr. METZENBAUM) was added as a cosponsor of S. 1613, a bill to modify the restrictions contained in section 170(e) of the Internal Revenue Code in the case of certain contributions of literary, musical, or artistic composition, or similar property.

S. 3418

At the request of Mr. PERCY, the Senator from Arizona (Mr. GOLDWATER) and the Senator from Tennessee (Mr. BAKER) were added as cosponsors of S. 3418, a bill to establish a Federal Privacy Board to oversee the gathering and disclosure of information concerning individuals, to provide management systems in Federal agencies, State, and local governments, and other organizations regarding such information, and for other purposes.

S. 3753

At the request of Mr. MCCLURE, the Senator from New York (Mr. BUCKLEY) was added as a cosponsor of S. 3753, a bill to provide memorial transportation and living expense benefits to the families of deceased servicemen classified as POW's or MIA's.

S. 3790

At the request of Mr. WEICKER, the Senator from Illinois (Mr. PERCY) and the Senator from California (Mr. TUNNEY) were added as cosponsors of S. 3790, a bill to provide means for compensating U.S. air carriers for excessive or discriminatory airport landing fees charged such carrier in a foreign country.

S. 3903

At the request of Mr. BROCK, the Senator from North Dakota (Mr. YOUNG), the Senator from New Mexico (Mr. DOMENICI), the Senator from Wyoming (Mr. HANSEN), the Senator from Maryland (Mr. BEALL), the Senator from Oregon (Mr. PACKWOOD), and the Senator from Illinois (Mr. PERCY) were added as cosponsors of S. 3903, a bill to extend the State and Local Fiscal Assistance Act of 1972 for 7 years.

S. 3935

At the request of Mr. MONTOYA, the Senator from Ohio (Mr. TAFT) was added as a cosponsor of S. 3935, a bill to amend the Internal Revenue Code to prohibit the disclosure of tax returns without the consent of the taxpayer, and for other purposes.

S. 3945

At the request of Mr. PACKWOOD, the Senator from Oregon (Mr. HATFIELD) was added as a cosponsor of S. 3945, a

bill to amend the Fish and Wildlife Act of 1956 in order to authorize the Secretary of Commerce to make loans to U.S. fishermen to cover the costs of damages to their vessels and gear by foreign vessels.

S. 3982

At the request of Mr. WEICKER, the Senator from Colorado (Mr. DOMINICK), the Senator from Wyoming (Mr. MCGEE), the Senator from Vermont (Mr. STAFFORD), and the Senator from Massachusetts (Mr. BROOKE) were added as cosponsors of S. 3982, a bill to restrict the authority for inspections of tax returns and the disclosure of information contained therein, and for other purposes.

S. 3985

At his own request, the Senator from Michigan (Mr. GRIFFIN) was added as a cosponsor of S. 3985, a bill to prohibit the shipment in interstate commerce of dogs intended to fight other dogs for purposes of sport, wagering, or entertainment.

S. 4016

At the request of Mr. ERVIN, the Senator from Connecticut (Mr. RIBICOFF), the Senator from Montana (Mr. METCALF), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Florida (Mr. CHILES), and the Senator from Illinois (Mr. PERCY) were added as cosponsors of S. 4016, the Presidential Recordings and Materials Preservation Act.

At the request of Mr. ROBERT C. BYRD (for Mr. NELSON), the Senator from Maine (Mr. MUSKIE), the Senator from Oregon (Mr. HATFIELD), the Senator from Kansas (Mr. DOLE), the Senator from New Mexico (Mr. MONTOYA), and the Senator from Illinois (Mr. STEVENSON) were added as cosponsors of S. 4016, the Presidential Recordings and Materials Preservation Act.

S. 4019

At the request of Mr. WEICKER, the Senator from Utah (Mr. MOSS) was added as a cosponsor of S. 4019, a bill to establish a Joint Committee on Intelligence Oversight.

SENATE RESOLUTION 412—ORIGINAL RESOLUTION REPORTED AUTHORIZING SUPPLEMENTAL EXPENDITURES BY THE COMMITTEE ON VETERANS' AFFAIRS

(Referred to the Committee on Rules and Administration.)

Mr. HARTKE, from the Committee on Veterans' Affairs, reported the following original resolution:

S. RES. 412

Resolved, That section 2 of Senate Resolution 250, 93d Congress, agreed to March 1, 1974, is amended by striking out the amounts "$221,000" and "$50,000" and inserting in lieu thereof "$275,000" and "$60,000" respectively.

ADDITIONAL COSPONSOR OF A RESOLUTION

SENATE RESOLUTION 392

At the request of Mr. TAFT, the Senator from New York (Mr. BUCKLEY) was added as a cosponsor of Senate Resolution 392, concerning the safety and freedom of Valentyn Moroz, Ukrainian historian.

AMENDMENTS SUBMITTED FOR PRINTING

PRISONER OF WAR AND MISSING IN ACTION TAX ACT—H.R. 8214

AMENDMENT NO. 1932

(Ordered to be printed and to lie on the table.)

Mr. STEVENSON (for himself, Mr. ROTH, Mr. ABOUREZK, Mr. CHILES, Mr. CLARK, and Mr. MONDALE) submitted an amendment intended to be proposed by them jointly to the bill (H.R. 8214) to modify the tax treatment of members of the Armed Forces of the United States and civilian employees who are prisoners of war or missing in action, and for other purposes.

FOREIGN ASSISTANCE ACT OF 1974—S. 3394

AMENDMENT NO. 1933

(Ordered to be printed and to lie on the table.)

Mr. KENNEDY (for himself and Mr. HUMPHREY) submitted an amendment intended to be proposed by them jointly to the bill (S. 3394) to amend the Foreign Assistance Act of 1961, and for other purposes.

FURTHER CONTINUING APPROPRIATIONS, 1975—HOUSE JOINT RESOLUTION 1131

AMENDMENT NO. 1934

(Ordered to be printed and to lie on the table.)

MILITARY AID TO CHILE

Mr. KENNEDY. Mr. President, I earlier introduced amendment No. 1779 to the Foreign Assistance Act with the purpose of halting all military aid to the Government of Chile.

The amendment which I submit today to the continuing resolution will achieve the same purpose. Senators HART, HASKELL, CRANSTON, and ABOUREZK are cosponsoring this amendment.

Mr. President, I ask unanimous consent that the text of the amendment we submit, together with a letter I have sent to my colleagues and certain other material be printed at this point in the RECORD.

There being no objection, the amendment and material were ordered to be printed in the RECORD, as follows:

AMENDMENT NO. 1934

On page 3, after line 3, insert the following new section:

SEC. 6. Such joint resolution is amended by adding at the end thereof the following new section:

"SEC. 113. None of the funds made available under this joint resolution may be expended on or after the date of enactment of this section to provide military assistance (including security supporting assistance, sales, credit sales, or guarantees or the furnishing by any means of excess defense articles or items from stockpiles of the Department of Defense) to the Government of Chile.".

U.S. SENATE,
Washington, D.C., September 24, 1974.

DEAR COLLEAGUE: I have introduced Amendment No. 1779 to the Foreign Assistance Act scheduled to come before the Senate shortly. This amendment would eliminate all military assistance to the government of Chile. It would not affect the economic aid proposals to that country which generally are concentrated in the area of nutrition and food assistance. While those economic programs can be supported on humanitarian grounds, I find it impossible to justify continued military assistance to support the current government which has continued to receive condemnations from international agencies and associations concerned with the violations of human rights in that country.

A year ago, the Administration requested some $10 million in military assistance for Chile. Following the overthrow of the previous government of Salvador Allende by military forces, the U.S. increased its military aid to the junta by nearly 50%, raising it to more than $15 million. This year, the military aid budget request for Chile is $21.3 million. While the Committee has reduced the request as part of its overall reduction in military assistance, it still would authorize $10 million in military aid to the junta in FY 1975.

I believe it is not in our interests to assist the military efforts of the junta to remain in power. When it came to power, the junta declared a state of internal war existed in that country which justified extreme repressive measures. That was over a year ago.

A state of seige still exists. The Congress remains closed. Political parties remain suspended. Individual freedoms remain limited. Universities, and now high schools and elementary schools, are governed by military directors. Torture of political prisoners has been reported throughout the year. Press freedom has disappeared. More than 7000 political prisoners remain behind bars. All of these events have occurred since the junta took office.

The Commission on Human Rights of the United Nations, The Inter-American Commission on Human Rights, The International Commission of Jurists, Amnesty International and other groups, including a study mission of the Senate Refugee Subcommittee, have found a continuing pattern of repression and continuing violations of human rights. Among the individuals who have served on those commissions in recent months have been a former U.S. Ambassador to Chile, a former Attorney General of the United States, a former Assistant Secretary for Latin American Affairs and members of the organized bar and the judicial branch of government.

With these uncontested reports, I find it impossible to support extending military assistance to the current government. It would be particularly difficult to justify to the people of the United States and other nations such assistance in the light of recent disclosures of CIA involvement.

If you would like to join with me in sponsoring this amendment, please contact Mark L. Schneider (5-4543).

Sincerely,

EDWARD M. KENNEDY.

[From the CONGRESSIONAL RECORD, Aug. 6, 1974]

AMENDMENT NO. 1779

(Ordered to be printed and referred to the Committee on Foreign Relations.)

Mr. KENNEDY. Mr. President, I am submitting an amendment today to the Foreign Assistance Act of 1974, S. 3394, to terminate all military assistance to Chile.

Since the overthrow of the Allende government last September 11, reports from Chile consistently have reflected widespread violation of human rights by the authoritarian military junta now in power.

Shortly after the coup, the Senate Subcommittee on Refugees held a public hearing into the condition of refugees and of human rights in Chile. Testimony at that hearing and subsequent reports of respected international groups disclosed the existence in

Chile of summary executions, of torture, of mass arrests, of the deaths of two American citizens, and of continued threats to foreign nationals. Those reports prompted me to introduce an amendment to halt all military aid to Chile. That amendment to the fiscal year 1974 foreign aid appropriations bill was adopted by the Senate on December 17, 1973. However, it was deleted in conference.

Unfortunately, in the months since that action, the situation in Chile has not seen a return to the traditional Chilean respect for and protection of human rights. In fact, a series of reports from respected international organizations such as the International Commission of Jurists and Amnesty International as well as private contacts that I have had with both Chilean and third country individuals and agencies convince me that a systematic disregard for human rights continues today in Chile.

Amnesty International, in a letter to General Pinochet, stated:

Contrary to some statements issued by Chilean Governmental officials abroad, there is substantial evidence of a persistent and gross violation of the most fundamental human rights.

The report went on to charge continuation of summary executions and torture, not only during their November visit, but up to the time of their letter of December 31, 1973.

In February, an ad hoc group of U.S. union officials, professors, lawyers, and church officials traveled to Chile. Their report was presented on February 28 at a congressional conference on the situation in Chile. It, too, disclosed thousands of "politically motivated detentions," the absence of effective legal process, the continued use of torture, the use of economic sanctions against those suspected of being in sympathy with the previous government and other violations of human rights.

In March, following a lengthy debate by the Commission on Human Rights of the United Nations, a telegram was issued by the United Nations. It stated:

The Commission on Human Rights, while considering the obligation of all states under the charter of the United Nations to promote universal respect and observance of human rights and fundamental freedoms, has considered with deep concern numerous reports from a wide variety of sources relating to gross and massive violations of human rights in Chile in contradiction with the Universal Declaration of Human Rights and other relevant international instruments ratified by a great number of countries including Chile.

The Commission on Human Rights, which has consistently deplored all violations of human rights, calls upon your Government for the immediate cessation of any kind of violations of human rights committed contrary to the principles of the United Nations Charter and other international instruments including the International Covenants on Human Rights.

In April, the International Commission of Jurists sent a delegation to Chile to inquire into the legal situation with regard to human rights. Its three-man delegation included Covey T. Oliver, former U.S. Ambassador to Colombia and former U.S. Assistant Secretary of State for Inter-American Affairs.

In May, the preliminary report of the delegation was released, expressing the "view that present judicial procedures and safeguards do not meet the minimum standards which Chile is bound to observe under article 3 of the Geneva Conventions, 1949." The report also stated:

We received most convincing evidence to support the declaration of the Catholic Bishops on April 24, 1974, that there are "interrogations with physical and moral pressure." We believe that the various forms of ill-treatment, sometimes amounting to severe torture, are carried out systematically by some of those responsible for interrogation and not, as many people sought to persuade us, in isolated instances at the time of arrest.

A study mission of the Senate Refugee Subcommittee traveled in Chile in April as well. It included former U.S. Ambassador to Chile Ralph A. Dungan, former State Department Latin American expert John N. Plank, and Mark L. Schneider of my staff.

The report, after its conclusions and recommendations previously had been communicated to the junta, was given to the Senate Subcommittee on Refugees at a public hearing on July 23, a summary of which appears in the RECORD of July 23 at p.24731.

That testimony once again disclosed—contrary to the continued assurances of the Chilean Government and its representatives—the existence of a systematic, flagrant and continuing disregard for human rights in Chile. They found arbitrary arrest and indefinite detention without charge. Some 6,000 persons, according to junta statistics, were under detention at the time of their trip. Other sources cited additional persons under detention at less permanent detention sites throughout the country. Last week, the State Department reported that Chilean officials still acknowledge that some 6,000 persons are detained.

The study mission also noted that the Chilean habeas corpus protection had been suspended. Torture and mistreatment of prisoners continued. Some prisoners were held incommunicado for months. Others were permitted to see their families on a somewhat regular basis, but briefly. Most never had a chance to see a lawyer. Due process appeared limited in all instances; totally absent in some. Schools and colleges were under military control. Freedom of the press did not exist. Many thousands of individuals were fired arbitrarily for their political beliefs from public and private employment. Labor unions were barred from striking and restricted in their normal activities.

The study mission also noted that the Congress had been closed; the Constitution abridged; political parties abolished or suspended; and the number of Chilean refugees in neighboring countries was rising.

In May, the Inter-American Commission on Human Rights of the Organization of American States sent a telegram to the junta in which it stated:

During this session, the study of the present situation of human rights in Chile has taken a great part of our time. On the one hand, we have examined those individual cases, clearly determinable, in which the violation of certain fundamental rights of one or several specified persons has been denounced. But, in addition, it has been necessary to analyze separately that which we might call a "general case," that is, the aggregation of charges from different sources according to which there is a policy in Chile which would imply, according to the claimants, the systematic disregard of fundamental human rights.

After some delay, the Commission was granted permission to visit Chile. Its recommendations were made public on Friday in Santiago. According to news reports, they indicated the Commission had found evidence that torture is used in interrogations of political prisoners, that people detained without charges are required to do hard labor, that Chileans sometimes disappear for days or weeks after being seized by police or military intelligence services and that military courts have limited lawyers' access to their clients and tried people under wartime rules, for acts committed before the September 11 coup."

In June, other observers, including the former Attorney General of the United States, Ramsey Clark, and New York City Criminal Court Judge William Booth, traveled to Chile. They visited the trials, now concluded, of former air force officers and several civilians who had held posts in the previous government of Salvadore Allende. Recently, the sentences were announced. They included four death sentences. Hopefully, those sentences will be commuted; particularly since the former Attorney General and Judge Booth described the proceedings as "show trials." They cited, along with other observers the lack of due process in the military court martial proceedings which operate for military and civilian alike.

One attorney was thrown out of court for speaking "too warmly" of Allende. Another was reprimanded for reporting that his clients had been tortured. Virtually all defendants were prosecuted on the basis of "statements" given by others who were themselves under indictment or under detention. And many of these defendants had told their families and their visitors of the systematic torture used during interrogations to obtain those "statements." The full texts of former Attorney General Clark's and Judge Booth's opening testimony to the Refugee Subcommittee are reprinted at page S 13899 of the CONGRESSIONAL RECORD of July 31, 1974.

Despite this unrefuted testimony from numerous respected international organizations, the attitude of the U.S. Government has been one of "business as usual." Despite the passage last fall of my amendment and its signature into law, stating the sense of Congress that—

"The President should request the Government of Chile to protect the human rights of all individuals, Chilean and foreign, as provided in the Universal Declaration of Human Rights, the Convention and Protocol Relating to the Status of Refugees, and other relevant international legal instruments guaranteeing the granting of asylum, safe conduct, and the humane treatment or release of prisoners.",

There is little evidence of forceful U.S. Government action.

The most obvious, and to me, the most unacceptable evidence of our policy has been the military aid program.

The administration has requested a near doubling of its fiscal year 1974 budget proposal for military assistance to Chile. Originally, a $10 million military credit sales program for fiscal year 1974 was recommended. Following the coup, that figure was increased to $15 million, a 50 percent hike. In its budget request for fiscal year 1975, the administration recommended another substantial increase, to $20.5 million, for credit sales and another $800,000 to support the training of Chilean military officers.

With a virtually unchallenged verdict of respected international organizations and respected jurists and scholars of a continuing pattern of gross violations of human rights in Chile, I believe the proposal for additional military aid to Chile to be unjustifiable and unacceptable. It contrasts with the announcements of Britain and France to withhold military equipment and it signifies a disturbing lack of commitment to basic human rights on the part of the administration.

For these reasons I am submitting this amendment, which I ask unanimous consent to be printed in the RECORD, along with several articles, to halt all military aid to Chile.

There being no objection, the amendment and articles were ordered to be printed in the RECORD, as follows:

AMENDMENT NO. 1779

On page 6, between lines 23 and 24, insert the following:

(4) At the end thereof add the following new section:

"SEC. 514. Termination of Assistance to Chile.—No funds made available under this chapter of the Foreign Military Sales Act may be obligated to furnish assistance to Chile on or after the date of enactment of this section.".

[From the Washington Post, Aug. 3, 1974]

"JUSTICE" IN CHILE

The "Justice" of the victors is being relentlessly administered in Chile by the officers who overthrew the Allende government last fall. Given the chaos of his last days, it is conceivable that some of Allende's supporters sensed that a coup was coming and hoped to forestall it by creating a power center of their own within the Chilean armed forces. At any rate, the coup came, destroying any such hopes, and the would-be hunters became the prey. The officers who had seized power looked about them for a dramatic way to legitimize their authority, to convince others inside and outside Chile that they had indeed saved the country by their own intervention. For Chileans are, despite their recent trauma, a law-minded people, and even the new leaders appreciate the benefits of winning their countrymen's respect. To fulfill this vital legitimizing purpose, they decided on a mass trial of Allende supporters, who were accused of trying to take over a substantial part of the Chilean air force. Sentences were handed down in that trial the other day.

Now, only in a country as politically riven as Salvador Allende's Chile could a group of 54 air force men (and 10 civilians) have contemplated a kind of coup within one branch of the armed forces in order to assure military support to keep the elected government in power. That is a fair measure of how things were in Santiago at that time. But only in a country as politically restrictive as General Pinochet's Chile would these defendants have been tried with so little a sense on the government's part of its own basic illogic.

Note that, despite government promises of a prompt public trial, a considerable number of Allende's civilian officials have remained in prison or otherwise under detention for almost a year, untried and uncharged. But apparently the military was offended by the thought that some of its own—air force men—supported Allende. The military perhaps also wanted to intimidate would-be dissenters still within the ranks. These seem to be the particular reasons why the 60-odd defendants were brought to trial before an air force court martial. That court sentenced four of them—a former Socialist Party leader and a colonel, captain and sergeant—to be shot, while 56 others received prison terms. Carrying out those sentences is a virtually certain way to build more hate and bitterness into Chilean society, which is desperately in need of a turn toward domestic peace.

In a trial where the crime charged is essentially loyalty to the previous government, there can be no question whether the trial is political: It is. Nonetheless, the Pinochet leadership permitted foreign observers to attend the sessions that were open—presumably to bear witness to the correctness of the proceedings or, at the least, to attest to the good faith of the Santiago junta. Whether the observers, simply by going, sanctioned the purpose of the trial would seem to be a fair question. Anyway, the reports of the several American observers, made to the Kennedy and Fraser congressional subcommittees, hardly gave the junta the clean bill of health it desired. The torture of political prisoners still goes on, the observers reported. Due process is an occasional thing. The exodus of political refugees runs high.

Official American interest in how the Chilean government lives up to international standards of human rights is hard to perceive. American military aid is high and getting higher. And in respect to Chile there is not even the excuse, offered most recently, for instance, in respect to police excesses in South Korea, that the United States has strategic interests requiring it to look the other way.

[From the Washington Post, Aug. 4, 1974]

OAS GROUP URGES CHILE STOP TORTURE

(By Joseph Novitski)

SANTIAGO, CHILE.—The Human Rights Commission of the Organization of American States has recommended to the Chilean military junta that it stop physical and psychological torture, punishment without trial and pretrial detentions that amount to prison terms.

The recommendations, made privately to the government on Monday and given to the press last night, were the result of the first on-the-spot investigation of human rights violations in Chile by an international organization. Members of the Human Rights Commission spent two weeks in Chile talking to government officials and detainees and visiting prison camps, detention centers and military courts. They were not permitted to visit three military installations identified by detainees as torture centers.

The eight members of the commission did not make public the findings of their investigation. However, the 11 recommendations they made to the government clearly implied that they had gotten behind the increasingly easy-going normality of daily life in Chile and looked at the continuing repression of known or suspected Marxists since President Salvador Allende was overthrown last year.

The commission's recommendations indicate that it had found evidence that torture is used in interrogations of political prisoners, that people detained without charges are required to do hard labor, that Chileans sometimes disappear for days or weeks after being seized by police or military intelligence services and that military courts have limited lawyers' access to their clients and tried people under wartime rules, for acts committed before the Sept. 11 coup.

The Human Rights Commission, a permanent body of the OAS, is limited in its ability to investigate charges of human rights violations by requirements that it work with the government that has been accused. The governments of Cuba, Guatemala and Brazil, for example, have refused to allow commission representatives to visit their countries.

The OAS as a whole has never taken action on allegations of human rights violations by a member country, and in June tabled a commission report on torture in Brazil.

The government's decision to permit the commission to visit Chile appeared to be part of an effort by the junta to improve its international image. The jurists from the United States, Argentina, Brazil, Bolivia, Chile, Mexico, Venezuela and Uruguay said the government had cooperated with their mission.

Carlos Dunshee de Abranches of Brazil, vice president of the commission, called the Chilean foreign minister's response to their recommendations "positive." That response was not made public immediately, but Santiago's pro-government newspapers published the commission's recommendations prominently today without comment.

In the military view, Chile's image has been hurt over the last 7 months by the very reports that the OAS commission came to investigate. Government officials and individual officers have dismissed the reports of violations of human rights as Communist propaganda. They have termed the individual Chileans, foreign journalists and church groups that have reported on the details and dimensions of repression here Communists, bad Chileans or Marxist dupes.

"They told me that they're always being lied about," U.S. Secretary of the Army Howard Callaway said last month at the end of a courtesy visit to Chilean army officials. "They categorically and adamantly denied that this (torture) was happening and showed me orders that had gone out. They said some soldiers had disobeyed these orders and had been punished."

There is no doubt that Communist and Socialist parties outside Chile, particularly in Western Europe, have organized a continuing campaign to denounce repression of leftists and others in Chile.

However, no communist or socialist countries belong to the OAS, a regional diplomatic grouping of the United States and 22 Latin American and Caribbean countries.

While the commission was here, according to an official estimate, 5,800 people were being held for political offenses in Chile, a country of 10 million.

About one-third of those held have had no charges lodged against them.

Hundreds of people, most of them women, went to the offices set up by the commission to add to the list of complaints before it. According to members of the commission, many came to report that relatives had disappeared after being detained.

While the commission was here, Jorge Montes, a Communist senator during Allende's government, was arrested with his wife and daughter. Relatives could not find out from junta officials where they were being held for more than a week.

Also during the commission visit, an air force court martial condemned a Socialist lawyer and three air force men to death for treason, for their role in supporting the Allende government.

The sentences, junta spokesmen emphasized, are subject to review by the commander of the Santiago air force garrison and by Gen. Augusto Pinochet, the leader of the junta. While the OAS commission was here, officials hinted that one or both of the officers would probably be moved to commute the sentences.

[From the Washington Post, Aug. 2, 1974]

CHILE JUNTA DEALS DEMOCRACY CUT OF LONG-TERM PLANS

(By Joseph Novitski)

SANTIAGO.—The Chilean military junta, after governing for 10 months with improvised policies and structures, has settled down for a long stay in power.

The junta, which replaced President Salvador Allende after the coup in which he died last September, began its tenth month by reordering the country's government, burning the national voter registry and breaking of relations with Chile's largest political party, the Christian Democrats. It all added up to a declaration that the military plans to govern for an indefinite span, without elections or organized civilian political support.

Government spokesmen, when asked how long military rule may last, answer, "We have plans, not deadlines."

The plans are for the long term and on a large scale.

"If we don't do big, lasting things, we might as well go home now," an adviser to the junta said recently.

Thus far, in what it calls "the second stage," the junta has made known its intention to rebuild the economy, to make it grow with the help of foreign investment, to reduce and reorganize the government bureaucracy and to enforce a total ban on civilian political activity by continuing the detentions and military-court trials that have been made the rule since last September.

The first step of government reorganization came late in June, when the armed forces agreed to shift from a four-man junta to a one-man presidency. Since the military overthrew Allende and uprooted his Marxist-oriented government, the commanders of the army, the navy, the air force and the *carabineros*, Chile's national police force, had ex-

ercised the powers of the presidency. They also took over the law-making power of the Congress, which was closed last year.

Now, Gen. Augusto Pinochet, commander-in-chief of the army and leader of the junta, has been named president for an indefinite term with the formal title of "supreme chief of the nation."

The point of the change, government sources said, was efficiency. The four-man junta had been slower in reaching decisions than one would be, they said. The commanders of the army, navy, air force and police have retained the role of drawing up laws for promulgation by decree.

Pinochet's rise also represents the ascendancy of the Chilean army over the navy, air force and police. Some civilian observers, believing that the army officers in government had shown more moderation than air force and navy officers, thought this might mean an easing of repression. This has not yet been the case.

Chilean families report that men and women are still disappearing for days and sometimes weeks. A businessman told friends recently he had been arrested, held for four days alone in a tiny cell and then released without charges.

While Gen. Pinochet was forming a new Cabinet of 14 military men and 3 civilians, two of them technocrats with international reputations the government burned the national voter registration records. A government spokesman explained that the lists of a 4 million voters were "notoriously fraudulent." No plans were announced for making new lists or reregistering voters.

The remote expectation that the junta might call elections to carry out its announced aim of restoring Chilean democracy disappeared with the electoral records. There remained another possibility, suggested to the junta by leaders of the Christian Democratic Party. The party leadership, who opposed Allende and publicly accepted the coup as a necessary evil, had hoped for a return to civilian government within three to five years.

That hope, according to Christian Democrats familiar with party affairs, disappeared when the junta publicly broke off its semi-public relations with the party in July. Formally, there has been no political party activity in Chile since the junta outlawed the country's Marxist parties and declared the others, including the Christian Democrats, in recess.

During the recess, Christian Democratic leaders continued to meet privately. Last January they presented a memorandum to the government that criticized the military's treatment of prisoners and its disregard for legal and human rights. Also in January, former Sen. Patricio Aylwin, recognized by the junta as the party's president, suggested privately to a military minister that Christian Democrats saw no need for more than five years of military dictatorship in Chile.

It was not Christian Democratic political opinions, but censorship imposed on a Santiago radio station owned by the party that caused the party's complete break with the junta.

After an exchange of letters, the government called the party an "instrument of international Marxism" and told Aylwin bluntly to keep a respectful tongue in his head when he spoke to the military government.

Christian Democrats said the government's move looked like a signal from the army that its contacts with Christian Democrats were at an end.

Some party leaders said the break helped the party overcome the reputation of having helped in the coup. Even former President Eduardo Frei, the grand old man of Chilean Christian Democracy who had gone, with other former presidents, to a thanksgiving Mass with the junta last year, was reliably reported to be critical of the military government now.

"In the end it's probably better this way," said a Christian Democratic lawyer. "They tell us to shut up and we stop arguing. It shows everyone that this is a dictatorship and that's that."

SEVENTY-THREE SOCIALISTS ON TRIAL IN SOUTHERN CHILE

SANTIAGO, August 1.—Seventy-three members of the outlawed Socialist Party are being tried on charges ranging from the illegal possession of arms to treason by a court martial in the town of Linares, about 172 miles south of Santiago, lawyers for the accused said today.

The lawyers said the prosecutor had demanded death penalties for four of the defendants charged with assisting the enemy during a state of internal war.

[From the New York Times, Aug. 4, 1974]

CHILE GETS SUGGESTIONS

Since the overthrow in Chile of the government of Dr. Salvador Allende Gossens, there have been repeated charges of torture and other abuse by the military regime of its political prisoners. Last week a human rights committee from the Organization of American States implicitly confirmed those charges, calling on the regime to ban the application of physical and psychological pressure on detainees.

The six-nation group, after 15 days of inquiry into allegations that human rights were being violated by the junta, did not in its statement explicitly accuse the regime. It confined itself instead to suggestions that human rights should be honored. Among its "suggestions" was a proposal that the Government inform families of detainees that their relatives were being held, and the reasons.

[From the Washington Post, Sept. 10, 1974]

UNITED STATES AGAIN DENIES ANTI-ALLENDE POLICY

(By Laurence Stern)

The State Department found itself in the center of a growing congressional furor yesterday over the disclosure that some $11 million in U.S. funds had been authorized for covert political action against the late Chilean president, Salvador Allende.

In the face of new charges that it misled Congress on the issue of U.S. intervention in Chile, a State Department spokesman yesterday stood by sworn testimony of officials on Capitol Hill that the United States pursued a policy of non-intervention during the Allende period.

The new round of controversy over U.S. policy on Chile was triggered by the disclosure Sunday that CIA Director William E. Colby acknowledged to a House Armed Services subcommittee last April 22 that $3 million in covert funds was targeted against Allendes' candidacy in 1964 and more than $8 million was authorized to block his 1970 election and "destabilize" his government between 1970 and September, 1973, when he was overthrown.

Sen. Edward M. Kennedy (D-Mass.), chairman of a Senate Refugee subcommittee which is investigating human rights violations in Chile, said yesterday that the disclosure of CIA funding of Allende's opposition "represents not only a flagrant violation of our alleged policy of non-intervention in Chilean affairs but also an appalling lack of forthrightness with the Congress."

He noted that covert political funding, such as was acknowledged by Colby, "has been denied time and time again by high officials of the Nixon and now Ford administration."

Kennedy called for full congressional investigation of the discrepancies in the official versions of what the United States did in Chile during the Allende period.

Jerome Levinson, counsel for the Senate Foreign Relations Committee's multinational corporations subcommittee, said "there is no doubt that we were misled" by State Department witnesses who testified last year that the Untied States had not undertaken covert activities against Allende.

The former Assistant Secretary of State for Inter-American Affairs, Charles A. Meyer, gave sworn testimony to the subcommittee March 29, 1973 that "the policy of the government . . . was that there would be no intervention in the political affairs of Chile. . . . We financed no candidates, no political parties. . . ."

Last June 12 Acting Assistant Secretary of State Harry Shlaudeman told a House Foreign Affairs subcommittee: "Despite pressures to the contrary the U.S. government adhered to a policy of non-intervention in Chile's affairs during the Allende period. That policy remains in force today. . . ."

When pressed by Rep. Donald M. Fraser (D-Minn.) on whether "you are prepared today to deny an assertion that the U.S. funneled money covertly to opposition parties following the 1970 election in Chile," Shlaudeman responded: "I am not . . ."

Fraser, chairman of a House Foreign Affairs subcommittee on international organizations, charged yesterday that "the executive branch had deceived the Congress as well as the public with respect to its involvement in the overthrow of the Allende regime."

Yesterday State Department spokesman Robert Anderson said that "we stand by the statements that have been made in the past." He declined to confirm or deny the report of Colby's testimony published Sunday in The Washington Post.

Secretary of State Henry A. Kissinger similarly declined yesterday through a spokesman to respond to Colby's testimony, which was recounted in a confidential letter from Rep. Michael Harrington (D-Mass.) to House Foreign Affairs Committee Chairman Thomas E. Morgan (D-Pa.) appealing for further congressional inquiry into covert operations in Chile.

Kissinger was chairman of a meeting of the "Forty Committee" on June 27, 1970 when the question of covert political action against Allende was taken up. Kissinger, according to records of the proceeding, favored a limited and thoroughly concealed program of intervention.

The State Department, according to sources with access, to inter-departmental records of the deliberations, opposed CIA intervention in the Allende election but abandoned its opposition when President Nixon ratified a limited program of intervention for which some $350,000 to $400,000 was authorized by the Forty Committee.

Kissinger was quoted in minutes of the June 27 top-secret meeting at the White House as having said: "I don't see why we need to stand by and watch a country go Communist due to the irresponsibility of its own people."

A spokesman for the Secretary said yesterday that Mr. Kissinger had no recollection of having made such an observation and would not comment on his role in the deliberations.

Colby's closed testimony to the House Armed Service subcommittee, as recounted in the Harrington letter, was that the CIA's role in the 1970 Chilean election was that of a "spoiler" engaged in "general attempts to politically destabilize the country and discredit Allende to improve the likelihood that an opposition candidate would win."

The Forty Committee, which is an inter-departmental White House panel supervising all U.S. covert operations, authorized a steady outpouring of funds into Chile through individuals, political parties and news media through Latin American and European chan-

nels during the anti-Allende effort, according to the summary of Colby's testimony.

Kissinger had, on various occasions, expressed personal reservations about the emergence of the Allende government, which was committed to a program of nationalization and income redistribution.

After . . . Allende's popular election in September, 1970, but before the congressional run-off, Kissinger told a group of editors at the White House that "it is fairly easy for one to predict that if Allende wins, there is a good chance that he will establish over a period of years some sort of Communist government . . .

"So I don't think we should delude ourselves that an Allende takeover in Chile would not present massive problems for us, and for democratic forces and pro-U.S. forces in Latin America . . ."

But Kissinger added that the situation was not one "in which our capacity for influence is very great at this particular moment now that matters have reached this particular point."

It was during this period that the CIA and International Telephone and Telegraph Co. sought actively to undermine Allende's prospect for election, according to testimony that emerged last year before the Senate Foreign Relations multinational subcommittee and most recently corroborated in far greater detail by CIA Director Colby.

[From the New York Times, Sept. 11, 1974]

TORTURE IN CHILE SAID TO CONTINUE—AMNESTY INTERNATIONAL CITES "UNPRECEDENTED" TOLL IN REPORT YEAR AFTER COUP

(By Kathleen Teltsch)

UNITED NATIONS, N.Y., September 10.—Amnesty International charged today that the torture of political prisoners was continuing in Chile a year after the coup d'etat that overthrew President Salvador Allende Gossens.

The accusations were made in an 80-page report published here to coincide with the first anniversary of the coup tomorrow.

In a preface, Martin Ennals, Amnesty's secretary general, said, "The death roll of victims is unprecedented in Latin American history and there is little indication that the situation is improving or that a return to normality is intended."

ABOUT 6,000 REPORTED HELD

Amnesty, a London-based human rights organization, reported that "reliable sources" put the number of political prisoners still held in Chile at 6,000 to 10,000.

The mass killings that took place immediately after the military junta seized power to have ended, the report said, but it charged that Chileans continued to disappear without explanation. "It is feared that the lives of many persons are still in grave danger," it added.

Amnesty said that it continued to receive reports that prisoners were subjected to beatings, electric shocks and psychological torture.

"The most common forms of physical torture have been prolonged beatings with truncheons, fists or bags of moist material, electricity to all parts of the body, burning with cigarettes or acid," the report said. "Such physical tortures have been accompanied with deprivation of food, drink and sleep.

The report said former prisoners had charged that doctors were involved in their torture or used "truth drugs."

CHILEANS GET REPORT

The Chilean delegation to the United Nations was given copies of the report by Roger Plant, one of three amnesty investigators who visited Chile last November.

A delegation spokesman said the report would be studied but recalled that officials in Santiago had attacked the findings of Amnesty's November inquiry as being biased, based largely on hearsay and as having ignored the "positive" actions taken by the Chilean Government.

The spokesman noted that the Government had just released one prominent Chilean, Orlando Letelier, former Ambassador to the United States, who he said had left the country and was now in Venezuela. Other sources here said the Chilean diplomat had been detained for almost a year.

The new publication by Amnesty, entitled "Chile: An Amnesty International Report," was said to have been based partly on the November inquiry but brought up to date by material from church groups, from prisoners and their families, and from a number of sources described by Mr. Plant during a news conference as being "completely reliable."

[From the Washington Post, Aug. 31, 1974]

CHILEAN CLERGYMEN URGE JUNTA TO END REPRESSION

(By Joseph Novitski)

SANTIAGO, August 30.—The leaders of Chile's four largest religious congregations have asked the ruling military junta to ease its repressive policies by freeing political detainees, stopping political trials by military courts and ending the state of internal war that has been in effect almost a year.

The requests were sent to Gen. Augusto Pinochet, chief of the junta and president of Chile, in a letter signed by four bishops, representing the Roman Catholic Church and two Protestant denominations, and by the grand rabbi of Chile, representing the Jewish community. A spokesman for the junta said Gen. Pinochet would answer the letter, which was made public today.

Couched in diplomatic language and based on Pope Paul VI's bull, proclaiming this a holy year, the letter is the strongest public initiative by Chile's churches since the coup last Sept. 11 against President Salvador Allende.

However, the numerically dominant Roman Catholic Church and the Protestant churches have been actively working to defend the rights of those detained or tried because they had supported Allende, a Marxist, during his 34 months in power.

All 28 of Chile's Roman Catholic archbishops condemned the government last April for permitting torture, detention without trial and job purges for political reasons. Its authoritarian educational policy was also criticized. The junta, which responded then by suggesting that the church had been infiltrated by Marxists, has since won public support from three conservative Catholic bishops.

The joint letter, delivered several days ago to Gen. Pinochet, suggested that with the first anniversary of the military coup at hand, it was time for mercy.

"It is painfully clear to us that hatred has not yet died out among us and that many innocent people are suffering over the fate of members of their families," the churchmen said.

The phrase was a reference to relatives of about 6,000 people now detained for political reasons. The letter asked that military authorities, "in accord with their own prudent judgment," grant pardons to detainees.

Some of the prisoners now held at specially built concentration camps have been imprisoned since September without charges, under the state of siege the military declared Sept. 11.

The churchmen also asked for an end to the state of internal war declared a day later, while troops and snipers were still exchanging shots in downtown Santiago and organized groups of armed workers were shooting at troops and police from at least two factories and one shantytown.

These moves, the prelates said, "would facilitate reconciliation and peace in the Chilean family and would . . . increase the prestige of our fatherland among the democratic countries of the world."

Finally, the churchmen asked for a review by civilian courts of all sentences handed down by courts martial, which because of the state of internal war, have tried all political charges for 11 months.

The letter was signed by Raul Cardinal Silva, the Roman Catholic archbishop of Santiago and primate of Chile; Carlos Camus, a Roman Catholic bishop and secretary of the Bishop's Conference; Helumt Frenz, the Lutheran Bishop of Chile; Juan Vasquez del Valle, Methodist Bishop of Chile, and Dr. Angel Kreiman, grand rabbi of the Jewish community.

AMENDMENT NO. 1936

(Ordered to be printed and to lie on the table).

FERTILIZER PRIORITIES

Mr. HUGHES. Mr. President, this year's foreign aid request included about $250 million for the purchase of fertilizer for needy foreign nations, of which $120 million was slated for South Vietnam.

On the authority of the continuing resolution, in the past few months we have purchased 219,000 tons of fertilizer for Vietnam, but only 122,000 tons for the rest of the world.

We have been overly committed to Vietnam militarily and we are still overly committed economically. In fiscal year 1973, Vietnam received 45 percent of our foreign aid fertilizer, and that figure jumped to 62 percent in 1974.

Our Government's commitment to help alleviate the world's food crisis seems hollow when the bulk of our assistance goes to only one small nation.

Millions of people are facing starvation in Africa, India, Bangladesh, and elsewhere, but the U.S. Government can find only meager amounts of fertilizer for them.

The troubling facts about our current fertilizer program are spelled out in an article from today's Des Moines Register. I ask unanimous consent that this article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Des Moines Register, Sept. 26, 1974]

HUGE STORES OF FERTILIZER TO INDOCHINA

(By George Anthan)

WASHINGTON, D.C.—The U.S. government is sending almost twice as much fertilizer to South Vietnam and Cambodia as to all other countries in the world, some of which face severe hunger and even famine.

Records of the U.S. Agency for International Development (AID) indicate that since June 1, the agency has financed purchases of some 219,000 tons of fertilizer for South Vietnam and 10,000 tons for Cambodia.

Other nations, including Pakistan, Bangladesh, Kenya, Afghanistan, Honduras and the sub-Saharan African countries are being sent a total of some 120,000 tons.

The emphasis the U.S. has placed on supplying fertilizer to South Vietnam is outlined in figures showing that during late 1973 and early 1974, AID financed a total of 531,000 tons of fertilizer and shipped 355,000 tons to South Vietnam.

AID officials confirmed that most of the financial benefit of the American fertilizer shipments goes to the government of South Vietnam, which, in effect, sells the product to farmers through several layers of middlemen.

The U.S. officials said South Vietnamese farmers are paying more than $600 a ton for fertilizer purchased by AID for about $355 a ton.

PRESS ALLEGATIONS

The Indochina Resource Center, a church-sponsored group here that provides translations of Vietnamese newspaper articles, has reported that the Saigon press is carrying stories charging involvment of 100 to 150 middle level government officials in sale and distribution of American fertilizer.

According to the news reports, private importers sell fertilizer to Vietnamese prov*ince officials*, some legislators and even religious leaders, who handle sales to farmers sometimes through an additional layer of distributors.

An AID official here said of the fertilizer situation in Vietnam: "There has been some concern over mishandling, hoarding and price-gouging, but we think most of that problem has been resolved."

International food and agriculture experts are becoming increasingly concerned over worldwide fertilizer shortages and rapidly rising prices.

They say adequate supplies of fertilizer must go to such countries as Pakistan, Bangladesh and the drought-ridden African countries that border the Sahara Desert if widespread starvation is to be averted.

The United Nations Food and Agriculture Organization (FAO) has started an emergency program to "find fertilizer wherever it can be produced and to come up with the cash to get hold of supplies for the developing countries that need it most," according to the Austrian agranomist heading the effort.

The FAO has received pledges of about $15 million for an international fertilizer pool it is trying to set up for poor countries. Officials say at least $750 million is needed.

LOST PRODUCTION

The agency has estimated that developing countries will lose some 20 million tons of grain production because of a two-million-ton shortfall in fertilizer supplies.

FAO officials say many poor countries have seen their fertilizer supplies cut off by wealthier nations.

Some U.S. officials privately say it is in America's national interest to provide heavy fertilizer supplies to "security" areas such as South Vietnam, and they contend that oil-rich states, including the Arab countries, should provide enough money so that the FAO can buy supplies for poor nations.

Senator Harold Hughes (Dem., Ia.) said, however, that the U.S. should take the lead, and he is preparing an amendment to the foreign aid bill now in Congress to limit fertilizer shipments to South Vietnam.

"Millions of people around the world may starve if they do not get sufficient fertilizer for their crops," said Hughes. "Yet, the U.S. government wants to channel the bulk of our aid to South Vietnam, where much of it reportedly is pocketed by corrupt officials."

He added, "This is wrong. If we are to fight famine, we should redirect our effort to areas where the hunger is."

The Senate Select Committee on Nutrition and Human Needs stated in a report that heavy fertilizer shipments to South Vietnam are aggravating the tight world supply and are committing limted U.S. funds to an area not in greatest need.

The U.S., the committee stated, "must reconsider its heavy commitment of sparse fertilizer resources to South Vietnam to determine whether portions might be reallocated to areas in which they might bring greater returns in food or ease hunger problems."

Senator Dick Clark (Dem., Ia.) will cosponsor Hughes' amendment, and he said "It's indefensible for the government to be sending these quantities of fertilizer to Vietnam when many of our own farmers can't obtain it, and when those who can get it are having to pay exorbitant premiums."

Clark said, "The record indicates that here, as in so many other instances, the Vietnamese government has simply used these shipments as yet another opportunity to engage in profiteering . . ."

Another critic of the U.S. policy, Representative Jerry Litton (Dem., Mo.), said that even though Congress this year voted to "whittle down the tremendously big economic and military aid to South Vietnam, the minute we turn our backs, they start giving them something else. This time it's fertilizer, which is in very short supply in America."

Litton's administrative assistant, Edward Turner, began making inquiries into U.S. fertilizer shipments after a trip to South Vietnam earlier this month.

Turner said he noticed bags of fertilizer being hauled to rice fields in the Mekong Delta area and U.S. officials told him a moratorium on such shipments to Vietnam had been lifted in June without a public announcement.

AID officials here said much of the fertilizer sent to Vietnam by the U.S. government is being purchased from foreign based producers.

Mr. HUGHES. Mr. President, to deal with this grossly distorted set of priorities, which channels so much to Vietnam, I am today submitting, on behalf of myself and the distinguished junior Senator from Iowa (Mr. CLARK) and the distinguished senior Senator from Michigan (Mr. HART), an amendment to the foreign assistance act.

This amendment would limit funds for fertilizer to South Vietnam to the $85 million already obligated and it would rechannel the difference—some $35 million—into the food and nutrition program for other nations.

This amendment will have the effect of stopping further purchases of fertilizer for Vietnam this year and would rechannel our limited supplies to the areas of greatest immediate need.

I ask unanimous consent that a copy of this amendment be printed in the RECORD.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

AMENDMENT NO. 1936

On page 10, line 11, strike out "$491,000,000" and insert in lieu thereof "$526,000,000".

On page 11, line 3, strike out the quotation marks.

On page 11, between lines 3 and 4, insert the following:

"(c) Of the total amount obligated under this Act during any fiscal year after fiscal year 1975 to procure fertilizers for, and to provide such fertilizers to, foreign countries, not more than one-third of such amount may be obligated with respect to South Vietnam."

On page 31, line 4, strike out "$550,000,000" and insert in lieu thereof "$515,000,000".

On page 31, line 6, strike out "$420,000,000" and insert in lieu thereof "$385,000,000".

On page 32, lines 17 and 18, strike out "$1,280,000,000" and insert in lieu thereof "$1,245,000,000".

On page 33, line 4, strike out "$420,000,000" and insert in lieu thereof "$385,000,000".

On page 33, line 13, strike out "$188,000,000" and insert in lieu thereof "$153,000,000".

On page 33, line 15, strike out "$150,000,000" and insert in lieu thereof "$115,000,000".

On page 33, line 16, before the semicolon (;) insert the following:

", of which not more than $85,000,000 shall be available for fertilizer".

DEVELOPMENT OF A FAIR WORLD ECONOMIC SYSTEM—H.R. 10710

AMENDMENT NO. 1937

(Ordered to be printed and referred to the Committee on Finance.)

Mr. BUCKLEY submitted an amendment intended to be proposed by him to the bill (H.R. 10710) to promote the development of an open, nondiscriminatory and fair world economic system, to stimulate the economic growth of the United States, and for other purposes.

NOTICE OF HEARINGS S. 2820

Mr. McCLELLAN. Mr. President, I wish to announce that the Subcommittee on Criminal Laws and Procedures and the Subcommittee on Constitutional Rights of the Committee on the Judiciary will hold joint hearings on S. 2820, a bill to establish administrative and governmental practices and procedures for certain kinds of surveillance activities engaged in by the administrative agencies and departments of the Government when executing their investigative, law enforcement, and other functions, and for other purposes. The hearings will be on Tuesday, October 1, Wednesday, October 2, and Thursday, October 3, at 10 a.m. in room 2228, Dirksen Senate Office Building.

Additional information on the hearings may be obtained by calling the Subcommittee on Criminal Laws and Procedures, 202–225–3281.

NOTICE OF HEARING RELATING TO CONDOMINIUMS

Mr. MANSFIELD. Mr. President, I should like to announce that the Subcommittee on Housing and Urban Affairs of the Committee on Banking, Housing and Urban Affairs, will hold 2 days of hearings on Wednesday, October 9 and Thursday, October 10, 1974, on S. 3658, a bill introduced by Senator BIDEN to protect purchasers and prospective purchasers of condominium housing units, and residents of structures being converted to condominium units, by providing for disclosure and regulation of condominium sales by the Secretary of Housing and Urban Development, and on S. 4047, a bill introduced by Senator PROXMIRE for himself and Mr. BROOKE, to protect purchasers and prospective purchasers of condominium housing units and residents of multifamily structures being converted to condominium units by providing national minimum standards for the regulation and disclosure of condominium sales to be administered by the Secretary of Housing and Urban Development.

The hearings will begin at 10 each day and will be held in room 5302, Dirksen Senate Office Building.

The subcommittee would welcome statements for inclusion in the record of hearings.

ADDITIONAL STATEMENTS

OPPOSITION TO FOREIGN AID AUTHORIZATION BILL

Mr. TALMADGE. Mr. President, since I first came to the U.S. Senate, I have

called for the United States to quit playing policeman, banker, and Santa Claus to the rest of the world. For each of 17 successive years, I have warned that the Federal Government has no business catering to the whims of every Tom, Dick, and Harry the world over while pressing domestic needs are ignored.

Now, in a time when the Federal Government is running a $14 billion deficit and domestic inflation is climbing over 15 percent, it ranks as the height of sheer folly for the Congress to approve a foreign aid package totaling over $3 billion.

While the administration asks the American family to tighten its belt, save more, and consume less, it has no business opening up the Treasury's coffers to 101 nations from every corner of the globe.

I cannot accept this, Mr. President. Public officials simply must realize that placing piles and piles of the taxpayers' hard earned dollars into the outstretched hands of governments from Afghanistan to Zambia buys no peace in the world and certainly gains America no friends.

The foreign aid bill on the floor today is the latest chapter in a 25-year global extravaganza totaling over $65 billion in economic aid alone and over $200 billion when military aid is included. Obviously, it has not made a dent in the discontent, war, and hunger in the world.

About all it has done is help saddle every man, woman, and child in the United States with a staggering national debt of well over $2,200 per person—over $500 billion in all.

It has been a prime example of the reckless Federal spending spree that has caused personal and corporate income taxes to reach a near-confiscatory level.

It has helped to blow the lid off interest rate ceilings, which are now the highest since the War Between the States. To many Americans, it has come to appear that their Government cares more about providing free houses and roads to people overseas than it does about helping them meet their own needs here.

By now, most Americans have heard that this or that appropriations bill has been slashed from 3 to 5 percent, in an effort to cut excessive Federal spending and return the Government to a balanced budget.

I would go beyond that, Mr. President. I would remove this entire bill from the budget.

I urge my colleagues to end this sacred cow of foreign aid once and for all, lest we go further and further down the road to economic chaos.

The Government cannot be all things to all people.

The absurdity of this bill is even more apparent when you look beneath the surface, Mr. President. Those Americans who were disturbed this past spring to hear that their tax dollars had gone to study why children fall off tricycles would, I am sure, be interested to know that they are now expected to foot a bill for tourism activities in Central America.

Those who might have had qualms when they discovered that the Government funded a study of perspiration among the aborigines will not be comforted to find out that they are underwriting export promotion in Honduras at the same time that America is again entering a trade deficit.

In fact, I dare say that some might be curious to know why we are asked to funnel money into Jamaican activities when that nation is imposing a huge tax on bauxite, causing the price of aluminum to leap here in America.

And, anyone interested in knowing why our Interstate Highway System still is not complete will be amazed to find out that we are helping to construct highways in Africa.

By the same token, prospective home buyers will, I am confident, not be happy to note that the same Federal Government which has until recently ignored the plight of the domestic housing market has been financing housing projects in Latin America and Asia. Parents and educators alike may question why bills appropriating badly needed funds for aid to our public schools have been vetoed as inflationary, while they are glibly asked to fork over almost $100 million for foreign schools.

Has any administration yet vetoed a foreign aid bill?

Then, too, taxpayers who favor better training for our policemen may dispute the value of spending $1½ million for the training of foreign police.

Surely, at a time when our crime rate is climbing by 15 percent, it is ridiculous for us to fight crime abroad, when we do not have the full resources to stop it here at home.

I submit that few Americans who waited patiently in long gas lines last winter would look kindly upon presenting Egypt with $253 million, but that is just what they have been asked to do.

Of course, that does not mean that the oil sheikhs in Iran and Saudi Arabia will be forgotten, for they, too, are slated to receive well over a million dollars of the taxpayers' generosity.

Whoever dreamed up this legislation must have been hell-bent on bending over backward to add more money to the overflowing vaults of the Arab treasuries.

I cannot understand why the American people are expected to humble themselves before those half-baked radicals in Algeria, Egypt, Iran, Saudi Arabia, and Jordan who pulled an oil embargo on us.

Surely, these countries can fend for themselves. Let them take the fruits of their unholy profiteering and give it to their neighbors, if need be.

Why should they get a free lunch off the American consumer?

Why should the American Government lavish vast sums or, for that matter, any sums at all on Turkey, when that Government winks at the drug traffic that supplies so much of the heroin that breeds addiction and crime in our cities?

I can see no logical reason why America should send economic or military aid to India, which values the development of the atomic bomb more than feeding starving masses.

Do the proponents of this bill realize that India is the very same country which finagled the previous administration into a shameful debt settlement of 3 cents on the dollar, in spite of the efforts of several of us in the Senate to obtain full repayment to the taxpayers?

The list goes on and on, Mr. President. Some accounts are small. Some are huge. Together, they add to an unhealthy dose of fiscal irresponsibility.

Mr. President, about all we ever hear in support of the foreign aid program are glowing promises about how well it works and how dire the consequences would be if we abandoned it.

In my travels abroad and in my discussions with American and foreign citizens, I have found few, if any, who could point to a particular project and describe in detail and in candor the benefits it had brought.

We should not and cannot afford to take this bitter pill.

I am tired of pious platitudes. It is time to realize that our own affairs must be set in order before even considering embarking on grandiose, frivolous, and financially reckless ventures overseas.

ON THE "IMPERIAL PRESIDENCY"

Mr. BUCKLEY. Mr. President, last Friday's Wall Street Journal contains an excellent article by Prof. Irving Kristol on the "instant political science" surrounding the subject on the "Imperial Presidency."

Conservatives have long warned about the concentration of power in the hands of the Executive. One such conservative, James Burnham, has analyzed this trend in a book published in 1959: "Congress and the American Tradition." Professor Kristol praises this work by one of our most distinguished political scientists as "still the most perceptive and thoughtful" in the "small library of books, essays, and editorials on the theme."

Naturally, conservatives are delighted that their arguments have been resurrected from what Professor Kristol calls academic and journalistic oblivion. But we are equally worried that the import of these arguments may soon be forgotten.

Therefore, I bring this thoughtful analysis to the attention of my colleagues while the troubles of the past 2 years are still fresh in our minds, and ask unanimous consent to have it printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal, Sept. 20, 1974]

THE INEXORABLE RISE OF THE EXECUTIVE

(By Irving Kristol)

One of the lesser consequences of Watergate has been the production of a small library of books, essays and editorials on the theme of "the imperial presidency." Some of these are scholarly and thoughtful; others are but the froth of journalistic commotion. The argument of all of them, however, is that we have for several generations permitted the presidency to evolve into something like a constitutional monarchy, that Watergate was a clear symptom of undue concentration of power in the White House, and that now we must see to it that the Legislative Branch regains much of the

power that has been improperly drained from it.

This exercise in instant political science has its merits, but it is also full of ironies. Most of the authors involved are of the liberal persuasion, who until yesterday were actively promoting the very tendency they now deplore. Suspicion of a strong presidency has, in recent times, been a conservative prerogative. As a matter of fact, the best book on this whole matter was written by a conservative and was published back in 1959.

I am referring to James Burnham's "Congress and the American Tradition"—a critical analysis of the emerging 'imperial presidency" that is still the most perceptive and thoughtful of the lot. Naturally, it is out-of-print and is rarely quoted in the current literature. There is nothing like being prematurely right to achieve academic and journalistic oblivion; and if in addition to being prematurely right you are also conservative, it helps accelerate the process.

At the time Mr. Burnham was writing his book, the official liberal attitude on this matter was defined by Professor Arthur N. Holcombe, one of the nation's leading political scientists. In 1956, Professor Holcombe could write:

"The function of Congress under the Federal Constitution is not to dictate legislative policy to the President. It is rather to insure that the policies of the administration will not be carried into execution without substantial evidence of the consent of the people in different parts of the country."

HAROLD LASKI'S VIEW

Professor Holcombe was here simply echoing an argument that American liberals had been proposing ever since Woodrow Wilson—an argument to the effect that, if you want to "get things done," you have to look to the Executive as your chosen instrument. Harold Laski, in his widely-read text, "The American Presidency" (1940), asserted matter-of-factly that "the modern state requires disciplined leadership" and that "no democracy in the modern world can afford a scheme of government the basis of which is the inherent right of the legislature to paralyze the executive power." And when President Truman seized the steel companies, he laid down the dictum:

"I believe that the power of the President should be used in the interests of the people, and in order to do that the President must use whatever power the Constitution does not expressly deny him."

Up until Watergate, this was the liberal construction of presidential power. Though most liberals may have disapproved of the Bay of Pigs, they certainly did not think for a moment that President Kennedy had committed an impeachable offense. It was not until President Nixon followed this precedent in Cambodia that the meaning of the Constitution became clear to them. And it was not until the Nixon administration that even the investigative powers of Congress were conceded by liberals to have a good reason for existence.

Back in 1922, Walter Lippmann had described congressional investigations as "that legalized atrocity . . . where Congressmen, starved of their legitimate food for thought, go on a wild and feverish man-hunt, and do not stop at cannibalism," and this was the basic attitude until Mr. Nixon came to office. It was an attitude, obviously, much strengthened by the activities, after World War II, of Senator Joseph McCarthy, whose contemptuous disregard for executive privilege was seen as threatening the ability of any administration to govern. Senator McCarthy was certainly up to no good—but the liberal argument was that he had no constitutional right to be up to no good in this way. How different from their attitude toward Senator Sam Ervin.

It does seem clear that, in much of the controversy over the proper limits of congressional and presidential power, one's attitude is determined by which party is, at the moment, in control of those two institutions. But not entirely. It is also a fair generalization that, on the whole, conservatives have been more adverse to increasing presidential power than have liberals. After all, even during the Watergate years, the Nixon administration was trying to achieve the devolution of such power by way of "the new federalism," as represented by general and special revenue-sharing—while the same liberals who were supposedly alarmed by "the imperial presidency" suddenly found all sorts of reasons for thinking such decentralization of power was not really such a good idea.

I am not suggesting that the conservatives have been always right. Indeed, in the area of foreign affairs, I would say they were usually wrong. Though Congress certainly and properly has a certain measure of negative control over foreign policy—if only through the appropriations process—the notion, favored by many conservatives since 1920 and now propounded by some liberals, that Congress should have anything like an equal share in the making of foreign policy, is absurd. The Founding Fathers never expected it to; it cannot, in the nature of things, do so. Foreign policy involves secrecy in negotiation, swiftness in decision-making, and an irreducible minimum of duplicitous scheming—all of which go against (and should go against) the grain of Congress as a public, deliberative body.

Even the congressional prerogative of "declaring war" is no longer very significant in the 20th Century. As Mr. Burnham has well said:

". . . In our day the act of formally 'declaring' war, losing all substantial meaning, has been reduced to a legalistic ritual without important historical or social consequence. And in this case it is not that Congress has lost a right or power to the Executive . . . . Because of the change in the nature of war itself, the right or power 'to declare war' no longer has much meaning, no matter who possesses it."

In the atomic age, declarations of war are just too dangerous, which is why Israel has never declared war on Egypt, India never declared war on Pakistan, Turkey never declared war on Greece, and the United States never declared war on North Vietnam.

As with declarations of war, so it is with treaties, which the Senate still must ratify. Most of the important aspects of our relations with foreign countries do not, need not, and frequently cannot find expression in treaties. They rest, rather, on personal contacts between heads of states.

The growth of presidential prerogative in foreign affairs is a logical and inevitable consequence of the emergence of the United States as a world power. Many conservatives, fearful of "statism," really wish to see our nation withdraw from this condition: that was the impetus behind the movement for the Bricker Amendment in the 1950s. Their apprehensions are not unfounded—much of the increase in governmental power (and in federal taxes) results from our involvement in the wars of the past 60 years. But there is no way back: today's nuclear technology makes international anarchy a threat to our very survival. So a strong national government, and especially a strong presidency, is here to stay.

But there is a difference between a strong and decisive government on the one hand, and a sprawling, bureaucratic government that intrudes in just about every aspect of our personal lives, on the other. And there can be no doubt that it is the liberals, in their eagerness to see the federal government "solve our social problems," who have created and who sustain a national government that is a lot more imperial than it need have been.

If power flows to Washington—as it has for more than 50 years now—there are only two places it can comfortably flow to: the presidency and the federal bureaucracy. Indeed, our last three Presidents have been openly engaged in a struggle for power, not with Congress, but with the bureaucracy. And one consequence of Watergate, already visible, will be to strengthen the bureaucracy at the expense of the White House. The "independence" of the regulative agencies, and even of Cabinet departments, from "interference" by the White House has suddenly become a sign, not of bureaucratic intransigence, but of political morality at its best.

Presumably a liberal President in the future, whose efforts to concentrate power in the White House will have the blessing of the media, may be able to reverse this tendency. And it is quite certain that, if he tries, he will have the full support of many of those who now are most eloquent about the dangers of an "imperial presidency," but who will then be excoriating "bureaucrats" for frustrating "the will of the people."

Meanwhile, however, it is the federal bureaucracy which has gained most—in power, prestige, and autonomy—from Watergate. The regulatory agencies and Cabinet departments are now semisovereign bodies. They are governed by presidential appointees who are also in fact captives of the permanent staffs of these bodies, and live in fear that any member of their staffs will denounce them to the media for being insufficiently independent.

TELEVISION'S NEEDS

By the media I mean, above all, the television networks. Newspapers are essentially local institutions and have no particular need to feed off events in Washington in order to survive. With television it is quite otherwise. It is a disaster for the networks if a lot of interesting and important events are not happening in Washington. They therefore have an almost automatic and mindless predisposition to favor the largest possible concentration of power in the national center, and to minimize the importance of local and state government, which they always manage to treat with scarcely concealed contempt.

Moreover, the very conception of "news" which dominates these mass media is that of simple-minded melodrama, of one piece with their entertainment programs. (That, incidentally, was why they were originally and disparagingly called "*mass* media.") Television cameras, and the people who own them and operate them, would go mad with boredom and frustration if they had to cover serious, lengthy debates in Congress, in which the complexities of issues were patiently explored.

They want political "actors" who are good guys and bad guys, but in any case of "star" quality; they need clean conflict and quick, clear-cut resolution. If they don't get what they want and need, they will conclude that the government is being wilfully ineffectual: witness the way our television networks are covering the issue of inflation.

And Congress? Well, despite all the unctuous chatter about Congress exercising a new self-discipline and regaining its lost powers, nothing of the sort is going to happen. The sad truth is that Congress doesn't *want* power—because its exercise involves taking the long view rather than the short one, studying issues rather than striking postures about them, and above all because it involves making hard, controversial, and frequently unpopular decisions. The kind of Congress that would be willing to exercise power responsibly would consist of men and women who either had absolutely "safe" seats or who, though ambitious for temporary public recognition, did not think of themselves as having life-time careers as politicians. The first kind of Congressman is on the verge of

extinction, as the result of various liberal reforms (reapportionment of electoral districts, "democratization" of party machinery, etc.). The second kind of Congressman doesn't even bother to enter politics these days—in the media-heated atmosphere of Washington, he would be either ignored or ridiculed.

If proof were needed of the willing impotence of Congress, it can be found in its tranquil toleration of the extraordinary growth in judicial power over these past two decades. The courts today assume prerogatives and powers—with regard to education, housing, environmental regulations, urban planning, the definition of police powers and civil liberties, etc.—which, in another time, Congress would have been quick to claim jealously as its own. Today, it is positively and obviously relieved by this new exercise in "judicial supremacy," and relinquishes its traditional powers to the courts with scarcely a murmur. It retains only the power to criticize and correct in extreme circumstances—it is no longer an equal branch of government, though it is still an important and potentially useful one.

NO TURNING BACK

The only possible inference from this state of affairs is that the "imperial presidency," in some form or other, is here to stay—along with the federal bureaucracy that is its true partner in power. That is the way our system of government has evolved over these past decades, and it is hard to see how the clock can be turned back. For those of us who have a special attachment to the American political tradition, it is not the happiest of spectacles. Still, there is no reason why this latest version of the democratic republic shouldn't be a reasonably decent form of government. It is even a form of government which some of the shrewdest among the Founding Fathers—Alexander Hamilton, most notably—preferred in the first place. Our textbooks still tell us that Hamilton lost out to Jefferson and Madison. But, then, authors of textbooks are always the last to know.

(Mr. Kristol is Henry Luce, Professor of Urban Values at New York University and co-editor of the quarterly The Public Interest. He is also a member of the Journal's Board of Contributors, four distinguished professors who contribute periodic articles reflecting a broad range of views.)

DÉTENTE: AN EVALUATION

Mr. JACKSON. Mr. President, I want to call the attention of my colleagues to an editorial on détente in today's edition of the New York Times. The editorial reinforces the point that many of us have been making on the need for a realistic quid pro quo in the context of negotiations with the Soviet Union for U.S. economic help, The considerable Soviet interest in, and need for, Western capital and technology is fundamental. Therefore, the West can properly bargain hard for the essential ingredients of a genuine détente—such as strategic arms reduction and freer movement of people and ideas.

I ask unanimous consent that the editorial be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

DÉTENTE

No one is going to oppose the ideal of Soviet-American détente, in its pure meaning, any more than one would willingly choose a world of tension and hostility in preference to a "generation of peace." The issue is whether the pursuit of détente is being wisely conducted, with proper regard for fundamental interests and full realization of pitfalls as well as rewards.

Secretary of State Kissinger's long promised testimony before the Senate Foreign Relations Committee last week provided a convenient summation of the sound conceptual arguments which he has developed in a series of statements over recent years.

He gave needed emphasis to the point that détente is a continuing process, a dynamic relationship, not a state of grace that at a given time will be finally achieved, signed and sealed, permitting the two superpowers to move on to other things. Détente is a pattern of mutual behavior that arises from each side's perception of its own self-interest. To be effective, in short, détente must give each side something that it wants.

The chief reservation about the policy of détente, as conceived by Mr. Kissinger under two Presidents now, is that this country may find itself settling for minimal tangible benefit for itself in pursuit of a desirable abstraction, while the Soviet leadership successfully extracts real concessions in return for empty lip service.

Nowhere is this danger more clearly raised than in Secretary Kissinger's discussion of expanding trade relations between the United States and the Soviet Union. "The significance of trade . . . is inflated out of all proportion," he said, when political concessions—on Soviet emigration policy or other matters—are demanded in exchange. Is it really?

It is difficult to talk with a single Soviet official these days without learning that, far from being inflated out of proportion, trade is the single most important component in détente, as viewed from Moscow. Easing of nuclear tensions, formal recognition of the European status quo—these are desired goals of Soviet foreign policy; but the desperate, driving impulse of détente is access to Western advanced technology.

The broadest criticism to be made of the détente policy as so far implemented is that the extent of the political cost which the Russians are willing to pay for this access has scarcely even been tested in American diplomacy.

Mr. Kissinger argues that this country's bargaining power is limited, for the technology the Russians so desire is available as well from other countries as the United States. True in principle, perhaps, but demonstrably false in the recent years' experience of frustrated Soviet trade missions around the world. The dimensions of scale in the Soviet economy are so vast, the capacity of the Western industrial world—excluding the United States—so small by comparison, that only this country can begin to provide the massive capacity which Moscow requires.

Even the working procedures on the American side of the trade bargaining process can be faulted, despite high level assurances to the contrary. While the Soviets envisage their many transactions in the broad context of political and economic needs, the American side has too often been content to let private entrepreneurs make their own deals on a purely commercial basis. If the Government finally moves in to consider these transactions from a national interest viewpoint, it may be too late to matter.

The danger of détente as it has been pursued, therefore, is that the United States may get an eloquently expressed design for interrelationship, while the Russians get a new generation of computers. Compounding this imbalance, principles of behavior—however solemnly agreed—can be readily revoked; technological knowledge once disclosed can never be withdrawn.

Many in the Executive branch as well as the Congress are well aware of these dangers. It is their responsibility to restrain an enthusiastic political leadership in the White House and State Department from succumbing to the abstract desirability of superpower détente, and insist that every single economic and political engagement with the Soviet Union be studied for its measure of mutual benefit, on its own merits.

ENVIRONMENTAL HISTORY

Mr. MUSKIE. Mr. President, I would like to share with my colleagues an article by Dr. Edward Schriver, associate professor of history at the University of Maine, entitled "Clio and the Environment: Some Thoughts on Teaching Environmental History." The article appeared in the Summer 1974 issue of the Phi Kappa Phi Journal.

Many Americans tend to feel that environmental concern is a new phenomenon, but we should not ignore the lessons of history in this area—as in other areas of public concern. As Dr. Schriver suggests, environmental history can teach us which past dangers to avoid and can allow us to integrate what we have learned about ourselves and our interdependencies. It can also help us avoid portraying the so-called environmental movement as a battle between heroes and villains, or between preservationists and utilitarians. In his article, Dr. Schriver offers a discussion not only of these points, but also of how they can be presented in the classroom.

I ask unanimous consent that the article from the Phi Kappa Phi Journal be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

CLIO AND THE ENVIRONMENT: SOME THOUGHTS ON TEACHING ENVIRONMENTAL HISTORY

(By Edward Schriver*)

How to teach environmental history has yet to be clearly thought through. Environmental history—or what has been called conservation history—in the past has had many pitfalls. One of the dangers has been the devil theory of causation which forces the teacher to focus upon alleged heroes and villains. One incarnation of this syndrome, for instance, leads the instructor to portray the conservation struggle as a battle between the preservationists in all their purity and the utilitarians in all their practicality, between the symbolic presence of John Muir, keeper of the Sierras, and Gifford Pinchot, leader of the prudent, but treecutting, foresters.

Today we require more than an avoidance of past dangers to sound conservation history; we need to integrate what we have learned about ourselves and our interdependencies.

I

Applying sound historical and interdisciplinary principles is obviously more easily outlined than implemented. History 177, History of the Treatment of the American Environment, which I teach is one attempt to bridge the gap between the old conservation history and the new environmental history.

History 177 is approached from four perspectives: the historical, the man-nature, the environmental crisis, and defending the environment. Needless to mention, none of these perspectives is self-contained.

What historical insights can a teacher prudently present in a one semester course which covers the whole spectrum of American environmental history from before 1607 to the present?

To reply to the above question, three basic strands of environmental history are isolated

in America's past: the utilitarian, the aesthetic, and the ecological. The utilitarian strand can be illustrated by reference to the life and work of George Perkins Marsh. Marsh's *Man and Nature*, first published in 1864, has latterly become a classic to which many turn for guidance.[1] One can move from Marsh to consider Gifford Pinchot and his concept of conservation which includes the admonition to use natural resources for the benefit of all the American people, not merely for the welfare of a special few. Pinchot advocated that scientific principles and prudence be applied so that the resources base would not be destroyed.

Practical elements in environmental history can be elucidated by the examples offered after Pinchot by the TVA, by the water quality and clean air acts, and by Earth Day, 1970.

The aesthetic strand may be found in the life and thoughts of Henry David Thoreau and John Muir.[2] This strand seems to be more difficult to get across to some people. The utilitarian approach to the land is clear; use America's resources, everybody use them, but use them scientifically and wisely. On the other hand, appreciation of shade, color, and line in nature is more difficult to portray, even with the eventful controversy surrounding a man such as John Muir.

The insight that nature has a life of its own and that life must be respected and cooperated with, if for no other reason than that it is beautiful, is very hard to document. The co-ordinate concept of quality of life is analogous to respect for nature is now only just beginning to permeate the public mind.

The ecological strand, as exemplified by the American Indian and his accommodation to his surroundings, has also just recently come into public purview. This awareness is being heightened daily by one series of man induced crises after another. The recent past has presented us with examples in Donora, Pennsylvania in 1948; London in 1952; and in subsequent occurrences (not the least being the current energy crisis). Nuclear fallout and Rachel Carson have added to the burden of the evidence.

The ecological strand runs squarely against the American ethos. Aldo Leopold's dictum that we are indeed members of the total biotic community (not the masters of it) is difficult for Americans as a people to follow. Even harder to comprehend is the corollary of Barry Commoner: "There is no such thing as a free lunch."

Our economic reasoning, for example, has yet to face directly the notion that our surroundings may well put even more severe limitations on future development and on our exploitative activities than they already do.[3] The American mental set—conditioned by generations of apparent success—has been expansive. The idea that the environment must be our partner in business may well be too much for us to accept at this point in time.

There is, naturally, the alternative which allows us to ignore the interaction and interdependence of living systems. However, we will only delude ourselves and invariably do ourselves and our fellows a great deal of damage (and bequeath a terrible legacy to the future) if we persist as a nation in this type of approach.

Other major concerns are also considered in History 177: the juxtaposition of the concept of wilderness and the American mind; how Americans have viewed the frontier through the decades; the general direction of land law development including the Public Land Law Review Commission's Report in 1970, *One Third of the Nation's Land*[4]; the establishment and activities of selected government agencies involved with the land (the Corps of Engineers, the Forest Service, the National Park Service, the Reclamation Service, and the Soil Conservation Service; to note but a few); the Progressive Era of American politics and conservation (including the first major national resource battle over the damming of Hetch Hetchy Valley in California); the smozzle caused by the Teapot Dome oil Scandal; and the age of Franklin Delano Roosevelt to the present.

Any acceptable introductory text—particularly Hans Huth's *Nature and the American* and Roderick Nash's *Wilderness and the American Mind*—will give the student enough material to move to more advanced studies.[5]

The second course perspective, man-nature, serves to illustrate the character of the relationship between mankind and his environment. There is an almost endless list of topics, books, and lectures in this area. Only a few of them will be noted for purposes of illustration.

The classic book—mentioned already—is by Aldo Leopold.[6] His *A Sand County Almanac* should be pondered by every interested American historian who is not familiar with its message. Through his career with the Forest Service and with the University of Wisconsin, Leopold drank deeply of the man-land connection. From his emerging love affair (not a sentimental, gushing relationship it must be made plain) with the land, he perceived the requirement for a land ethic. Of this ethic, he wrote with depth and feeling.

"When we see land as a community to which we belong, we may begin to use it with love and respect. There is no other way for land to survive the impact of mechanized man, nor for us to reap from it the esthetic harvest it is capable, under science, of contributing to culture. That land is a community is the basic concept of ecology, but that land is to be loved and respected is an extension of ethics. That land yields a cultural harvest is a fact long known, but latterly often forgotten." [7]

Edward Abbey's anguished cry from the Arches National Monument in Utah stands in stark contrast to the moderate words of Aldo Leopold. Abbey in his *Desert Solitaire* comes forward as an angry defender of the wonders of nature against the onslaughts of Tourist Culture.[8] With a venom-tipped pen he charges.

"At once I spot the unmistakable signs of tourist culture—tin cans and tinfoil dumped in a fireplace, a dirty sock dangling from a bush, a worn-out tennis shoe in the bottom of a clear spring, gum wrappers, cigarette butts, and bottle caps every where. This must be it, the way to Rainbow Bridge; it appears that we may have come too late. *Slobivious americanus* has been here first." [9]

From the bitter exhortations of an Edward Abbey, one can shift to the deep flowing insights of John Hay *In Defense of Nature:*

"The field of life, and not the landscape, garden, or even wilderness, terms we use to define our relationship with nature, this cosmic field, is where the hunting is. How could an Indian or an Eskimo, following his prey without help from guns and machines, risking his life each time he went out to hunt, not know himself to belong to the same earth as his quarry? How, since he was so near in self and in spirit, could he not venerate the powers that give and take away, and even ask forgiveness of that animal he was about to kill?" [10]

Ian McHarg provides still another focus on the man-land relationship. If, McHarg insists, we design with nature, we will build well and perhaps will avoid ecological disaster. While perhaps trite, the margarine ad on television makes this point; it's not nice to fool Mother Nature with an artificial product (because if you do, you will regret it at some later date). McHarg produces his evidence in the form of the wreckage cottages (and other data) on the New Jersey sand dunes.[11]

John McPhee bares the preservationist mind set toward manland in *Encounters with the Archdruid* (who happens to be David Brower, formerly of the Sierra Club, now with Friends of the Earth).[12] Brower faces three opponents: a mining engineer who believes that our well-being rests with finding and extracting more and more minerals; a resort developer who regards all conservationists as "Druids;" and a builder of gigantic dams who grew up in the dry west and who deeply believes in the power of impounded water.

The environmental crisis is the third perspective. For the eye, other than direct personal observation, there is ample evidence of the malaise in the National Geographic Society's *As We Live and Breathe*.[13]

One cannot enter this area without encountering Barry Commoner and Paul Ehrlich, head to head.[14] For Commoner, the crisis in large measure is one of uncontrolled innovation in technology; Paul Ehrlich, on the other hand, contends that Commoner has seriously neglected the environmental growth.

The environmental crisis and its sources, history, and current status is multi-faceted: the debates over the future of nuclear energy, the water crisis, the pesticide and herbicide battles, the struggle to save endangered species, the attempts to recover air purity, the debate over economic growth versus a stable state, the presence of massive spills of oil in the oceans, the threat to health from metal poisoning, the shoot-out over strip mining, the fears over chemicals in our foods, the decisions over clearcutting, and all the other symptoms of the problem.

There are those who insist that too much is being made over the so-called environmental dilemma. They too must be heard, if not heeded.

John Maddox, a former editor of the English journal *Nature*, has written the most uncompromising refutation of the doomsayers.[15] Maddox tells his readers in *The Doomsday Syndrome* that while there are certainly environmental problems, there is nothing amiss that doing business-as-usual with a bit more caution will not alleviate. He takes it upon himself to castigate a veritable galaxy of environmental leaders: Rene Dubos, Paul Ehrlich, Kenneth Boulding, to mention but three. Maddox has special scorn to heap upon the late Rachel Carson for alarming us all in 1962 with *Silent Spring*.[16]

John Maddox and those who agree with his point of view both in Britain and the United States, further, are appalled by the suggestions offered by Dennis Meadows and the M.I.T. team in *Limits to Growth* and by the journalist editors of the *Ecologist* in *Blueprint for Survival*.[17] A Sussex University group has given the Maddox forces ammunition in a study done on the *Limits* entitled *Models of Doom*.[18] The Sussex researchers uphold the same optimistic view that John Maddox posits and look to man's ingenuity and to past escapes to sustain us.

Defending the environment is the concluding perspective in History 177. From colonial times until the present, attempts have been made by government and private individuals and bodies to protect the land and its resources. Colonial officials were completely aware of the need to protect natural resources. Their inclinations were blunted, of course, by the prevailing climate of opinion which was amenable to taming, to conquering, and to subduing the land.

To conclude that Americans as a people require a change of heart, lifestyle, and way of doing things is obvious. Rene Dubos hits the issue squarely when he writes:

"Conservation therefore implies a creative interplay between man and animals, plants, and other aspects of Nature, as well as between man and his fellows. The total en-

Footnotes at end of article.

vironment, including the remains of the past, acquires human significance only when harmoniously incorporated into the elements of man's life." [19]

Raymond F. Dasmann, John P. Milton, and Peter H. Freeman carry the issue from the point to which Rene Dubos brings it in the above statement:

"But just as it has long been obvious that development efforts which ignore economics and engineering are likely to founder, so it should by now be equally obvious that development efforts that take no account of the ecological 'rules of the game' are also bound to suffer adverse consequences." [20]

Lynton K. Caldwell, a political scientist, proposes defending the environment through professional, research based management.[21] Besides scientific and ecologically sound stewardship of our resources, an understanding and use of legal tools to protect the environment are required. What can the citizen do to prevent or to correct abuses of the public interest? What are the legal ramifications of the Calvert Cliffs Decision or the National Environmental Policy Act of 1970?

On the practical level, how can the public get involved? A spate of good and bad popular books answer this question: from *The User's Guide to the Protection of the Environment* to *Teaching for Survival.*[22]

II

No special uniqueness is posited for the approach mentioned above. No brief is set forward for the exclusion application of this means to teach environmental history. Certainly, the scope is widened to include other disciplines besides history (environmental geoscience, economics, geography and others); this will alienate some and may be a danger in and of itself.[23]

Nothing is said about the researching and writing of environmental history. This activity complements its teaching and is necessary to growth in understanding. Lawrence Rakestraw cautions moderation in churning out endless reams of environmental history.[24] I argee. We need to re-think what it is that we are doing. In his conclusions about our perception of the task, Rakestraw is correct:

"Historians who regard conservation as past politics might profit by a spell on the sawmill greenchain, or as trail workers for the Park Service to get some grassroots insights. Those who look at conservation from the field would profit from a government internship and exposure to bureaucratic frustration. We need better work as both government agencies and private groups look to history for guidance and decision making. Resource decisions are too important to be made on the basis of shoddy scholarship and faulty hypothesis." [25]

"It is impossible for a man to learn what he thinks he already knows."—Epictetus.

FOOTNOTES

*Dr. Schriver, associate professor of history at the University of Maine at Orono, is the author of "Pursuit of Excellence," the 75-year history of Phi Kappa Phi. This paper is a condensation of an address given at the Conference of New England Historians, October, 1973.

[1] David Lowenthal (ed), *Man and Nature* (Cambridge: Belknap Press, 1967).

[2] Two useful books on Muir are Holway R. Jones, *John Muir and the Sierra Club: The Battle for Yosemite* (San Francisco: The Sierra Club, 1965) and Linnie Marsh Wolfe, *Son of the Wilderness* (New York: Alfred A. Knopf, 1945).

[3] It must be noted that man can create with nature as Rene Dubos is careful to point out. His little article, "Man's Creative Touch Often Improves the Land . . .", *Smithsonian*, Volume Three, Number Nine, December 1972, pages 18-28, points this out. Also, one must take care not to be too absolute in one's pronouncements about how limited man is by his environment. Clarence J. Glacken's *Traces on the Rhodian Shore: Nature and Culture in Western Thought from Ancient Times to the End of the Eighteenth Century* (Berkeley: University of California Press, 1967) and Thomas F. Saarinen's *Perception of Environment* (Washington, D.C.: Association of American Geographers, 1969) help to show some of the pitfalls.

[4] *Once Third of the Nation's Land: A Report to the President and to the Congress by the Public Land Law Review Commission* (Washington, D. C.: United States Government Printing Office, June 1970).

[5] Hans Huth, *Nature and the American: Three Centuries of Changing Attitudes* (Lincoln, Nebraska: University of Nebraska Press, 1972) and Roderick Nash, *Wilderness and the American Mind* (New Haven: Yale University Press, 1973).

[6] Aldo Leopold, *A Sand County Almanac* (New York: Ballantine Books, 1970). Susan L. Flader has written "Aldo Leopold and the Evolution of an Ecological Attitude," (Stanford University, PhD Dissertation, 1971). Flader's work is being published as a book.

[7] Aldo Leopold, *A Sand County Almanac*, pp. xviii–xix.

[8] Edward Abbey, *Desert Solitaire* (New York: Ballantine Books, 1971).

[9] Abbey, *Desert Solitaire*, pp. 214–215.

[10] John Hay, *In Defense of Nature* (Boston: Little, Brown and Co., 1969), p. 125.

[11] Ian L. McHarg, *Design with Nature* (Garden City, New York: Doubleday and Company, 1971).

[12] John McPhee, *Encounters with the Archdruid* (New York: Farrar, Straus, and Giroux, 1971).

[13] *As We Live and Breathe: The Challenge of our Environment* (Washington, D.C.: National Geographic Society, 1971).

[14] See Commoner's *The Closing Circle* (New York: Alfred A. Knopf, 1971) and Ehrlich's *Population, Resources, Environment: Issues in Human Ecology* (San Francisco: W. H. Freeman, 1972).

[15] John Maddox, *The Doomsday Syndrome* (London: Macmillan Ltd., 1972).

[16] Rachel Carson, *Silent Spring* (Greenwich, Connecticut: Fawcett Books, 1962).

[17] Donella H. Meadows *et al*, *The Limits to Growth* (New York: Universe Books, 1972) and the Editors of the *Ecologist*, *Blueprint for Survival* (Boston: Houghton Mifflin Company, 1972).

[18] H. S. D. Cole *et al*, *Models of Doom: A Critique of the Limits to Growth* (New York: Universe Books, 1973).

[19] Rene Dubos, *So Human an Animal* (New York: Charles Schribner's Sons, 1968), p. 199.

[20] Raymond F. Dasmann *et al*, *Ecological Principles for Economic Growth*, (London: John Wiley & Sons Ltd., 1973), p. vii. See also E. J. Mishan, *Growth: The Price We Pay* (London: Staples Press, 1969).

[21] Lynton K. Caldwell, *Environment. A Challenge to Modern Society* (Garden City, New York: Doubleday and Company, 1970).

[22] Paul Swatek, *The User's Guide* . . . (New York: Ballantine Books, 1970) and Mark Terry, *Teaching for Survival* (New York: Ballantine Books, 1971). See also Joseph Sax, *Defending the Environment* (New York: Alfred A. Knopf, 1971) for a lawyer's view.

[23] No one should dismiss the battle between disciplines. It can be bitter, as everyone is aware.

[24] Lawrence Rakestraw, "Conservation Historiography: An Assessment," *Pacific Historical Review*, Volume XLI, August 1972, Number 3, p. 288.

[25] Rakestraw, "Conservation Historiography," p. 288.

SUNDAY PATRIOT-NEWS

Mr. HUGH SCOTT. Mr. President, in 1949, a new concept in journalism for central Pennsylvania was initiated with the birth of a regional newspaper.

On September 17 of that year, the first edition of the Harrisburg Sunday Patriot-News promised its readers what had never before been attempted in the heart of the Commonwealth—a newspaper that would serve a 100-mile radius of the capital city.

That promise has been fulfilled, and this year the Sunday Patriot-News marks a quarter-century of service. This fine newspaper enjoys both a large and continually growing circulation and a loyal readership.

The Sunday Patriot-News grew from an initial circulation of 57,122 to reach its goal of more than 100,000 circulation within 4 years. Today it is the fifth largest Sunday newspaper serving the Commonwealth.

I congratulate the Sunday Patriot-News on 25 years of service to the people of central Pennsylvania, and I ask unanimous consent that two articles commemorating this benchmark be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

SUNDAY PAPER IS 25 TODAY

(By Paul B. Beers)

The Sunday Patriot-News, Vol. 1, No. 1, had a rousing, rather brazen birth just 25 years ago. In bold, one-inch type, printed in red above the masthead, or flag, was the assertion: "Number One!"

Meaning "number one" as a regional Sunday newspaper, as well as the number one keepsake edition, The Sunday Patriot-News entered the Central Pennsylvania world with an initial healthy circulation of 57,122.

Within four years, it surpassed its goal of 100,000 circulation and, before it was out of its infancy, it was the most sucecssful newspaper ever published in the almost 200-year history of Central Pennsylvania. Better than 50 newspapers in Harrisburg alone had gone before it, but none topped The Sunday Patriot-News.

In news coverage, circulation, advertising and reader loyality, the Sunday Patriot-News has far exceeded any expectations of its founders. Today's circulation of 168,319 was never imagined when the bulldog (first) edition appeared on Market Square at 7:40 p.m. Saturday, Sept. 17, 1949.

"The Sunday Patriot-News humbly bows its greetings to the people of Central Pennsylvania, whom it promises to serve faithfully and energetically," the first editorial proclaimed.

What the paper also promised was what it termed "regional journalism," a new concept for 1949 and never before attempted in Central Pennsylvania.

As much as any idea can bring success, it was the concept of "regional journalism" that did it for The Sunday Patriot-News.

From the beginning, the news converage, circulation and advertising message extended to a 100-mile radius of Downtown Harrisburg. The readership and market was the vast Pennsylvania T-zone between Philadelphia and Pittsburgh.

Patriot-News executives anticipated population growth and increased prosperity in the Midstate, but their forecasts were conservative. No one expected that in two decades the population would soar by a third—almost 230,000 persons—in Adams, Centre, Cumberland, Dauphin, Lebanon, Perry and York counties alone, which now have almost one million people.

Enterprise, remarkably perceptive planning, hard work and good luck enabled the

Sunday Patriot-News to establish itself quickly and grow with the Central Pennsylvania community. So much is it a part of the scene that thousands of readers cannot imagine a Sunday morning when this newspaper isn't either at their doorstep or at a newsstand.

Continuity has long been a major ingredient of American newspapering history, and The Sunday Patriot-News in particular has had unusual continuity, both in its format and its personnel.

As the child is father to the man, the first editor of The Sunday Patriot-News bears a direct resemblance to today's Vol. 25, No. 52. A reader from 1949 would note the same section breaks in today's Sunday paper, with special emphasis on sports and family news and such enduring features as television listings in a magazine format and "Parade." Beyond some modernizing improvements, the single major change is that the 1949 paper had two-inch columns and was 17 inches wide and 21¼ inches deep, while today's paper has 1¾-inch columns and is 14½ inches wide and 22½ inches deep. Its original new idea in layout, design and use of pictures has remained fresh and appealing.

That The Sunday Patriot-News format has lasted a quarter of a century is a tribute to the planning that went into the product and the newspaper expertise of those who did it.

The continuity in personnel is extraordinary. Better than a tenth of today's Patriot-News staff was here 25 years ago when the first Sunday newspaper was born. Edwin F. Russell, the principal founder of The Sunday Patriot-News, was president then and now. John H. Baum, today's publisher, was an account executive then. Marion W. Milliron was managing editor of the first Sunday newspaper and is managing editor today. Al Clark was the executive sports editor then, and is now. David Fair has been circulation director all 25 years.

There was not much to go on in developing The Sunday Patriot-News.

At the turn of the century Harrisburg had a short-lived Sunday Telegram, which was produced on Walnut Street near the old jail; today the site is Shoppers Parking.

The Harrisburg Sunday Courier lasted from World War I to World War II. Founded by the late Harry and Leon Lowengard, it went out of business in mid-1942 when their nephew, Ben Lowengard, now president of the Harrisburg School Board, went off to war. An earlier Courier, at the turn of the century, had come out on Tuesday and Fridays before it became a Sunday newspaper. The Sunday Courier sold for 5 cents and had 12 to 16 pages, with a maximum of 24, including four preprinted pages of color comics. It had one full-time staff writer, its circulation varied between 5,000 and 7,000, and it was never a regional newspaper.

Among the key figures devising The Sunday Patriot-News were Russell, E. A. Doepke, Fair, Eugene G. Farrell, the late Dean M. Hoffman and Clark. Doepke, now retired in Camp Hill, was the long-time advertising manager. Farrell, recently retired in Jersey City, N.J., was the editorial assistant to the publisher, and Hoffman was the veteran editor.

Farrell, an expert in news coverage, contributed ideas for the format of the paper and then worked beside Sunday editor Milliron to put it out. Clark, with a national reputation as a sports editor, put together his sports section so that it has remained, with only slight change, as one of the top Sunday sports sections in the nation.

Hoffman, a Harrisburg editor from 1911 to 1953 and a popular local figure, added a touch of humor to the founding of The Sunday Patriot-News with his memorable "Behold Speech." One evening prior to the first edition, The Patriot-News rented the old Penn Harris Hotel ballroom for a presentation to 150 area businessmen. Page-by-page blow ups of the coming Sunday paper were made, and they were carried on stage accompanied by Hoffman's commentary. "Behold, here comes the sports page," Hoffman exclaimed, and then, "Behold, here comes the women's page," and so forth, each announcement preceded by his "behold."

The audience was captivated by what they saw in the planning of the new paper and equally charmed by Hoffman's resounding "beholds." During the briefing, in fact, one businessman came in the back door with some drinks for friends and was greeted by colleagues who shouted, "Behold, here comes so-and-so with the refreshments."

The businessmen were excited about the paper for two reasons. Its regionalization meant an extension of Midstate commerce. "This will bring the countrymen from Lebanon and Penn State into the Harrisburg market," Doepke explained, as the paper quickly did when it was established. Furthermore, the Sunday paper opened Monday shopping. "In Pennsylvania, everybody had reserved Mondays for washing until then," said Doepke, who traveled as far as Milwaukee in preparation for the advertising plans of the new paper.

The Saturday the first Sunday Patriot-News was produced was an historic one. Editor Milliron recalls having a full staff aboard, and everyone involved. He, Farell, Philip Hochstein in from Newark, N.J., and others were at the copydesk handling stories and writing headlines. Reporters had spot features for the first edition.

The paper was produced in the old Market Square building next to the Senate Theater, from which The Patriot-News eventually moved in 1953. The editorial room was on the third floor.

As Patriot-News employees awaited the first paper off the press, so did a crowd of citizens in the street below. A story at the bottom of Page 1 described what happened:

"Like waves from a big rock dropped into a lake, the new Sunday paper spread through Harrisburg and into the entire Central Pennsylvania area last night."

Newspaper history had happened, and it is still happening.

ON ORIGINAL STAFF—SIXTY-THREE VETERANS "STILL AROUND"

Sixty-three members of the original Sunday Patriot-News staff are still in the newspaper business and with the Patriot-News Co.

The group of veteran employes is headed by Edwin F. Russell, who has been president since 1947. Publisher John H. Baum was an account executive for the first issue of the Sunday newspaper. Marion W. Milliron was editor of the Sunday paper and after other assignments has returned as Sunday editor again. Al Clark was the executive sports editor and is today, and David Fair has been circulation director for a quarter-century of the Sunday Patriot-News.

Other members of the first Sunday Patriot-News still active are:

Art director, Nick Ruggieri. Accounting, Martha Johnson. Administration, Janet Lau. Classified advertising, Raymond Willett. Engraving, Charles Fromm.

Editorial, John Travers, Madeline Bosworth, Fred Gilbert and Harry Goff, Switchboard, Mary Shoemaker. Stereotype, Solomon Swartz, Walter Bubb and Edgar Carpenter. Press room, Kenneth Kreiger, Franklin Anderson, Clarence Waltermyer, Jacob Stark, Robert Houseal and Ralph Williams Jr.

Composing, John Palm, Lester Slough, William Speese, Warren Tippett, Earl Whitman, Gilbert Wolfe, Emerson Wade, Howard Brown, Emil Brunner, Lester Conrad, Jay Eckert, Marlin Erhart, James Gordon, Frank Hummer, George Looker, Donald Monroe, Roy Morris, William Shearer, John Clark, Walter Brubaker, Wilbur Corpman, Fulton Howell, Richard Hyde and David Maeyer.

Mailroom, Albert Good, George Fillmore, William Wilsbach, Charles Rau, Melvin Kramer, Richard Swartz and Paul McClain.

Display advertising, Lee Anthony, Wray Beinhauer, Richard Dougherty, James Floyd, Lewis Neidhammer, Ernest Reed, John Renshaw and Roberta Baldwin.

Neidhammer is dean of the staff, having joined The Patriot-News on Aug. 15, 1923. Fair joined the company in 1926 and Mrs. Shoemaker in 1929.

EMERGENCY MARINE FISHERIES PROTECTION ACT

Mr. METCALF. Mr. President, I have just finished reading the unfavorable report (S. Rept. 93–1166) by the Committee on Foreign Relations on S. 1988, the bill to extend on an interim basis the jurisdiction of the United States over certain ocean areas and fish, previously reported favorably by the Committee on Commerce (S. Rept. 93-1079).

I take this opportunity to associate myself with the Additional Views in the Foreign Relations Committee report by the senior Senator from Maine (Mr. MUSKIE) and the junior Senator from Rhode Island (Mr. PELL).

Mr. President, the Foreign Relations Committee has pending before it S. 1134, a bill to provide the Secretary of the Interior with authority to promote the conservation and orderly development of the hard mineral resources of the deep seabed, pending adoption of an international regime therefor. It was favorably reported by the Committee on Interior and Insular Affairs in Senate Report 93–1116.

I have taken the liberty of inserting, in brackets, in the Additional Views, the words "mineral resources" wherever the word "fisheries" appears and additional comments. I ask unanimous consent that this statement be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

ADDITIONAL VIEWS

As part of the rather substantial minority within the Foreign Relations Committee that voted for a favorable report on S. 1988, we as New England Coastal State Senators believe it particularly necessary to prepare these additional views strongly supporting the passage of this legislation.

Together we have closely followed and participated in the development of the U.S. position and the preparations aimed at establishing an international legal regime governing the uses of the oceans. Both of us have been named as Senate Advisors to the U.S. Delegation to the Third UN Law of the Sea Conference and have actively discussed the aims and progress of this Conference with both the United States and foreign delegations. [The Senate Committee on Interior and Insular Affairs also named Advisors to the U.S. Delegation.]

From a philosophical and idealists point of view, we both believe that a comprehensive multilateral treaty is necessary to solve the numerous problems associated with ocean space. However, with respect to fisheries [mineral resources], it is our belief that the delays in negotiations and the time needed to conclude an agreement of this magnitude will not realistically serve our country's best interests. At the present time, there are 149 nations participating in the

UN Law of the Sea Conference, many of which have not determined their own national policies or interests. These countries hope to deal with approximately 81 items, each having various degrees of importance to certain groups of countries. Four years of preparatory meetings have done little to reconcile the wide disparities between these nations and their ocean interests. Consequently, we believe that it will be very difficult for the Conference to complete its tasks by 1975, and that interim action is essential to prevent the further depletion of our own U.S. coastal fish species [to prevent the loss of the fragile lead now enjoyed by the United States in the technology necessary to discover and develop the mineral resources basic to our economy].

In New England, the problem is particularly acute. [In the United States, the problem is particularly acute. Recently we have had an example of the effect on the American economy when a group of raw material producers band together to increase their economic and political clout. According to the most recent statistics available, the United States is importing about one-third of the oil we need. But our dependence on foreign sources for the essential ingredients of steel is more than 90 per cent. At the same time, the minerals we need are available on the bottom of the ocean and there is substantial evidence that American industry can find and recover these minerals without impairing other uses of the oceans and with every regard for the purity of their waters.] Since the early 1960's, foreign fishing has severely reduced the number of our coastal stocks. The National Marine Fisheries Service indicates that Atlantic haddock, herring, menhaden, yellowtail flounder and halibut have been severely depleted, some to a point where they may never recover. Although the United States is party to a large number of international fishery conservation conventions, most of these agreements fail to contain realistic or effective enforcement provisions. Consequently, these arrangements have miserably failed in their efforts to stop over-exploitation. [These arrangements have failed to stop the governments of the United Kingdom, Canada and Japan from encouraging their nationals to develop seabed mineral resources.]

We have been told by both foreign delegates and by the Administration that it takes time to negotiate solutions to these very important international problems. We have been urged to use restraint and to await the outcome of the Law of the Sea Conference. However, we fail to discern similar restraint being exercised by foreign trawlers off our New England coasts [by foreign governments on their nationals seeking seabed minerals], nor do we see any bilateral agreements being concluded to the same effect. We firmly believe that a generally acceptable treaty on fisheries [mineral resources] will not be negotiated and implemented before the late 1970's, and that there is a serious danger of a further depletion of our coastal species [of a loss of the fragile technological lead now held by American industry]. Therefore, we feel that it is in our best national interest and in the interests of conservation to adopt the emergency interim measures contained in S. 1988 [S. 1134] designed to regulate, control and protect the fishery stocks within 200 miles of our coasts [to regulate the activities of the U.S. nationals including every regard for other uses of the ocean—as they head seaward for the minerals we must have].

It should be noted and emphasized that the testimony received by the Foreign Relations Committee indicates that the provisions of S. 1988 [S. 1134] are totally consistent with the current fishery [mineral resource] goals of the United States at the Law of the Sea Conference and are meant to be interim only. Sections of this bill specifically state that if the Law of the Sea negotiations produce an acceptable agreement which is ratified by the Senate, this legislation will be preempted. Consequently, we strongly urge our fellow Senators to vote for the passage of S. 1988 [S. 1134].

Mr. President, I congratulate my colleagues on their views. I hope they prevail when the Committee on Foreign Relations reports S. 1134.

AIR FORCE RESTRICTS FLY-BYS

Mr. PROXMIRE. Mr. President, on Tuesday I released an advance statement calling on Gen. David C. Jones, the Chief of Staff of the Air Force, to halt all aerial fly-bys for retirement ceremonies of high ranking officers.

I noted that General Jones deserved commendation for cracking down on the unauthorized use of support aircraft. His August 23 message to all commanders was strong and to the point.

He said:

> In this era of rising prices and very great concern on proper use of taxpayers' money, we cannot afford to use any resource for other than mission essential requirements.

I then urged General Jones to apply the same standards to fly-bys for retirement ceremonies.

One such fly-by was just conducted at the retirement of Gen. Jack Catton on August 30, 1974. At that time one KC–135, one B–52, one C–141, one KC–97, and four RF–4's were assembled and flown for review by General Catton.

General Catton was the Commander of the Air Force Logistics Command who personally authorized the expenditure of $670,000 of Air Force funds to convert his jet into a luxurious "flying penthouse."

General Catton's fancy retirement ceremony stands in stark contrast to the earlier retirement of former Chief of Staff Gen. John D. Ryan. General Ryan chose not to have a fly-by in light of the energy crisis.

Another fly-by was planned for the November 1, 1974, retirement of Gen. Arthur G. Salisbury, Commander of the U.S. Air Force Southern Command at the Panama Canal. Practices for this ceremony were underway. The plans for the fly-by included the use of A–7's, C–130's, C–123's, helicopters and observations planes in addition to General Salisbury's "own" C–118.

I strongly recommended that the aerial flybys be canceled. Retiring generals and admirals deserve the recognition of their country but I was sure that ways could be found that were less energy and dollar wasteful.

Yesterday I was informed that General Jones will shortly issue a directive to all commands restricting flybys of aircraft for retirement ceremonies. This prompt and tough action shows that the new Chief of Staff means business in his campaign to limit unwarranted defense spending. He has my enthusiastic support and I warmly commend his initiative and response.

General Jones apparently will direct major commands to cancel all flybys for the remainder of the year, including the planned exercise for Gen. Arthur G. Salisbury at the Panama Canal on November 1.

He also intends to prohibit flybys when the sole purpose is to recognize an individual. Any exceptions will be granted only in "very unusual circumstances" and all future flybys will require the personal approval of the Air Force Chief of Staff.

General Jones has indicated that fuel expenditures will be a key consideration in any decision as well as public opinion.

I have been impressed with the responsiveness and leadership of the Air Force in recent months. General Brown, former Chief of Staff and now Chairman of the Joint Chiefs, made an unprecendented speech outlining just how strong the U.S. Air Force was compared to our potential adversaries.

And now General Jones has cracked down on the unauthorized use of support aircraft and retirement flybys. He also intends to make further reductions in headquarters staffing I am told.

These decisions deserve the support of Congress and the American people.

EXIMBANK'S LOW INTEREST LOANS TO COMPETITIVE FOREIGN AIRLINES

Mr. GURNEY. Mr. President, the recent timing of the announcement by the Export-Import Bank of loaning $66 million to foreign air-flag carriers at low interest rates comes at a crucial time when the very survival of our own U.S. international carriers is at stake.

How can we on one hand provide low interest loans for aircraft to foreign airline carriers, while at the same time deny Pan Am and TWA similar assistance because of their cost squeeze due mainly to recent dramatic increase in jet fuel prices? Ironically, some foreign airlines are aided by foreign fuel suppliers who have contributed to the increase of jet fuel prices charged to U.S. carriers by as much as 300 percent during the last year.

The United States has provided aid for nearly 30 years to foreign airlines through low interest loans. These loans have been handled by the Export-Import Bank recently for as much as 4 to 5 percent below the prime interest rate which U.S. international flag carriers pay for the identical aircraft. This difference allows foreign airlines the opportunity of purchasing an aircraft, such as the 747, DC–10, or L1011 for as much as $7 million reduction in interest on loans below what U.S. carriers pay. Certainly, a point must be reached when we have to realize that by offering these low interest loans to the airlines which compete against our own U.S. air carriers in the international travel market, we are sabotaging not only the competitive capability of our air transport system, but dealing a financial blow to them as well, affording foreign air carriers a financial advantage at the outset.

I certainly endorse the expansion of our exports for the obvious economic reasons, but not at the expense of our international air carriers. An example of the inadequacies in the policies of the Eximbank toward the commercial air trans-

port sector is supplied in House Report 93–1261, amending the Export-Import Bank of 1945, in the supplemental views of Congressman HENRY S. REUSS, as follows:

In some sectors, the Bank has provided credit where there is clear evidence that credit was unnecessary. Long-range jet aircraft, an American monopoly, provide the most flagrant abuse of this kind. Foreign air carriers, which have little competitive choice but to buy American 747's, L–1011's and DC–10's, have been able to obtain credit from the Eximbank at rates which are unavailable to our domestic carriers. A Treasury staff study over two years ago called for an end to this practice. There is no competition from foreign sources for our long-range plans. The oft-mentioned European airbus, which is the only foreign-made wide-bodied plane, has too short a range and is unsuited, for safety reasons, to high altitudes or hot climates. Yet the Eximbank has failed to make the obvious economic judgment and deny credit where credit is clearly unneeded. It should begin to do so . . .

Recent legislation has been introduced to correct this inequity by amending the Export-Import Bank Act of 1945 by providing guarantees, insurance, and credits made available to foreign air carriers for acquisition of U.S. aircraft used in foreign air transportation shall be made available on no less favorable terms to U.S. air carriers for acquisition of such aircraft—including spare parts and equipment—used in competition with such foreign air carriers.

This legislation, if passed, would place our international airlines on an equal financial basis with foreign air carriers in the purchasing of aircraft.

Action of this kind represents the beginning of many actions which are needed to aid our financially plagued international air carriers.

The Secretary of Transportation, Claude S. Brinegar, recently announced the creation of a new aviation economic policy office. This office has the responsibility of coordinating and implementing new procedures designed to enhance the financial position of our U.S. international carriers. The broad areas the new aviation policy office will be looking into include:

First, identifying potential improvement in airline revenue and costs, operating authority and its utilization;

Second, analyzing the effectiveness of various elements of public policy affecting aviation; and

Third, gaining an understanding of the problems of privately owned, profit-oriented U.S. airlines in competing with foreign government-owned or subsidized airlines.

Mr. President, this is the approach—not Federal subsidies—Congress must take in providing a competitive, economically viable atmosphere if our international flag carriers are to survive. We can either sit back and let our U.S. air carriers go under or we can take the appropriate action and pass legislation which will end these unfair policies.

DEVELOPMENTALLY DISABLED ASSISTANCE AND BILL OF RIGHTS ACT

Mr. TUNNEY. Mr. President, I would like to express my support of S. 3378, the Developmentally Disabled Assistance and Bill of Rights Act which will soon be before the Senate. The Developmental Disabilities Services and Facilities Construction Act has provided assistance to States in developing a plan for the provisions of comprehensive services to persons affected by mental retardation and other developmental disabilities originating in childhood. It also has provided aid in the construction of facilities.

Before the implementation of this act in 1963, very little was being done to provide aid to the mentally retarded. The enaction of the Developmental Disabilities Act marked a new era in the Federal Government's efforts to provide a better life for all mentally retarded and other developmentally disabled citizens. The success of the Developmental Disabilities Act has been overwhelming and I am pleased to see that S. 3378 does a great deal to broaden the scope of the present program.

I am particularly interested in the inclusion of "autism" in the definition of developmental disabilities. I have maintained a long-standing interest in the plight of the autistic child and I have been particularly concerned over the lack of available funding for research into the cause and ultimate treatment of this disorder.

Clearly, the most natural source of funding stemmed from the Developmental Disabilities Services and Facilities Construction Act. In June 1972, I directed a letter to the Secretary of Health, Education, and Welfare requesting that he include in the Developmental Disabilities Act, "autism," which by definition aligns itself with the definition of "developmental disability" already established in the act. The Secretary chose not to expand the definition to include autism and as a result of that decision I introduced legislation, S. 1949, that would allow for the inclusion of "autism" in the act.

A provision identical to my bill has been incorporated into S. 3378 and I am pleased to see that it was preserved in mark-up.

There are over 80,000 classic cases of autism in the United States today and the time has come when the autistic child should finally be given the full consideration he rightfully deserves as a developmentally disabled child. Tremendous strides have been made over the past few years in the treatment of "autism." If we continue to progress at the rate we are going, perhaps in the very near future we can eliminate "autism" completely from the list of unfortunate mental disorders.

THE FRANCHISE GAME—V

Mr. HARTKE. Mr. President, the losers in franchise schemes have few laws to help them recover their investments and fewer remedies to enforce judgments against unscrupulous promoters. Existing laws are weak and do not provide sufficient remedy when the seller is thousands of miles away finding another unsuspecting buyer of a hollow franchise arrangement.

The fifth in a series of articles published by the Chicago Tribune after a 2-month investigation that covered 30 States and Canada reported that franchise legislation has been enacted in several States but with little consistency or effectiveness.

Mr. President, I ask unanimous consent to have the article printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Chicago Tribune]

FRANCHISE LOSERS FIND FEW LAWS TO CATCH THE HUSTLERS

Patricia Jackson, 27, has walked with a limp since birth because of a dislocated hip, and she is allergic to dust and mold.

Then she dislocated her shoulder and developed arthritis.

Last year she lost $1,495 to a salesman who convinced her she could go into business cleaning homes and offices. The ailments didn't matter, he said, because she would be an executive directing the work of others.

Now Miss Jackson knows that like thousands of other Americans, she was the victim of a bad franchise investment.

Instead of selling her a business, the salesman for Cyclo Designs, Inc., of Waukegan simply peddled a few chemicals, an overpriced vacuum cleaner, and two floor polishers touted as unique new equipment.

Even the inventor says the polisher's 1961 patent is nearly obsolete. But Cyclo's president, Tim Christian, is unsympathetic to demands for refunds from investors like Miss Jackson. He claims he was gypped himself when he bought the polisher eight years ago.

"I've got a lot of money invested in this," he told a Tribune reporter. "It cost me $200,000 to get into this business, and I found I had been the victim of a fraud. The patent was okay, but 25 per cent of the motors that were used burned out. Nobody gave me my money back. Why should I give hers back?"

So Christian continues to sell his wares as a franchise investment thruout the Midwest to anyone who will buy them, and he doesn't care about their chances of success.

He has left a trail of broken and indebted dealers who found their small operations could not compete for cleaning jobs, and who complain that the equipment continually breaks down.

"I realized $100 out of my $5,000 investment since 1973," says Cyclo investor Gerald RuLon of St. Paul, who tried for months to recruit workers and accounts. "They promised me I'd be up to $50,000 in a year. It works on paper. You can see their mathematics but it doesn't work in reality."

Eager investors fall for these sales pitches every day. The salesmen sit in a thousand living rooms, exploiting the franchising boom to hide a bad business idea or inflated costs on equipment investors could buy themselves at a corner store.

And there is precious little information available to advise the franchise shopper differently.

Illinois is one of only seven states that have passed laws requiring franchisers to file disclosure statements detailing information on their financial condition, officers, and other operating franchises.

Failure to file the statement with the secretary of state or making false statements in the report is a felony. Under the law, a franchise shopper may demand a copy of the disclosure statement from the company.

But firms investigated by The Tribune, including Christian's, have ignored the disclosure law, often simply claiming they are

not obliged to file because they are not a franchise operation.

Still, they use the lure of franchising's good name in drawing investors, and their operations have all the elements of a franchise.

For three years the controversy over the definition of the word franchise has bogged down attempts to enact federal disclosure regulations. The Federal Trade Commission, for example, has been trying to put together a package of regulations, but lawyers can't even agree on a definition for the word.

"There have been over a hundred suggestions," said one FTC attorney in Washington. "Each would include and exclude different businesses."

The federal delays have prompted a handful of states to pass their own disclosure laws, each defining franchising in a different way. The effect is confusing, and doesn't hinder the operations of shady companies.

Food Resources, Inc., for example, has found a sanctuary in its home base of San Mateo, Cal. Meanwhile, it sells franchises in other states peddling nut vending machines called nut shacks or nut huts—a name similar to an established Chicago manufacturer's "Little Nut Hut."

Its business doesn't qualify it as a franchiser under the definitions of California law, said Margaret Kemp, an assistant district attorney in San Mateo.

But it does qualify as a franchiser under the laws of Washington state, and the attorney general's office there was quick to slap the company with a restraining order that kicked the salesman over the state line.

"They would set up an appointment on a weekend, sell the distributorship, and take the check and get out of the state," said James Kaiser, Washington state atorney general.

Often their victims waited for weeks before they knew their vending machines wouldn't make any money, or that the beverage machines sold by Redi-Brew, Inc., a sister corporation, were unable to pass the board of health inspections.

The company cut a quick swath across the state, even going so far as to sell three persons the same exclusive area in one weekend.

In October, 1973, a court ordered the company to stop selling franchises in Washington. Officials correctly predicted "they will move to another state."

The company's advertisements appeared in early fall in Arizona, and by Nov. 7 Richard G. Smith of Tucson had paid $2,126 for 10 of the vending machines and a distributorship.

"They said if I did all right I could easily go into it full time, like a fella in Washington. They said he was making $50,000 a year," said Smith.

"I thought it was a pretty tidy income. On paper it sure looked good."

But Smith found that his machine couldn't make anywhere near the money the salesmen had predicted on paper. Eight of the 10 were kicked out of the taverns where they had been placed, and Smith knew his business was a failure.

A few weeks ago the company opened offices in Wheeling.

But throughout its odyssey from state to state, Food Resources has never failed to get a glowing report from the National Business Reporting Bureau, a San Mateo County-based firm that sells good recommendations to questionable franchise operations.

The bureau operation has moved into the informational vacuum surrounding franchise sales. Gilbert Gafner, the man behind it, admitted the company gives no bad reports. It advertises all over the country as a place where investors can check on a franchise.

And James Baumhart, a spokesman for the Chicago Better Business Bureau, thinks, the reporting bureau's name is trading on the reputation of his organization. The two are in no way associated, and their policies are very different.

"People call us and they want us to tell them a company's okay, and they should go ahead and invest their money," Baumhart said. "We just can't do that."

On the other hand, he said, his agency can't legally reveal information on court actions or investigations until there is a final disposition.

"What people don't understand is that we don't get complaints on the bad outfits until the damage is done and the company is already starting to phase out," Baumhart said. "By then it's too late."

Bilked investors all over the country complain that they had no warning about companies that would later let them down. As a founder of the International Franchise Association and consultant to the Small Business Administration, A. L. Tunick gives authoritative advice on how a franchise shopper can spot a shady deal:

"I would be very careful if a company says it never had a failure. There are always failures. People fail. There is no way it can be prevented.

"I'd be very leery of a company that doesn't take a chance with me, one that doesn't have something to lose if I fail. Ask the franchiser what his risk is.

"A lot of times the buyer doesn't need the franchiser for anything. You could go out and buy what you need on your own. Their name doesn't do any good. They don't teach you anything.

"Make sure it is a long-term relationship they are offering. It's the difference between a wedding and a date. You marry for a long-going relationship.

That's what Roxanna Kennedy, 34, thought she was getting when she borrowed $5,000 to become the Cahokia, Ill., distributor for New York-based Rings Unlimited, Inc.

It was a chance for her to get off the public assistance and save money to send her three children to college.

"Start with us," the ad read. "You won't stop making money."

But she said the 150 dozen rings the company sent "looked like junk" compared with the quality merchandise the company salesman had shown her during his sales pitch. Within six months the merchants had thrown her merchandise out of their stores.

Now she is still paying the $5,000 loan, the New York firm is gone, and she is stuck with 820 rings.

"I wasn't worried at first," she said, "because I knew that if I had been defrauded I could go to a lawyer or the federal officials, and they would help me get my money back."

But she was wrong. She had taken for granted that she had legal safeguards that do not exist.

In the federal arena there is a hit-or-miss method in which franchise investors try to recover losses by coming into court under the cloak of the securities laws. Because fraud is so difficult to prove, they must convince the judge that the deal they bought qualified as a security under the Securities Exchange Act.

And for it to qualify, the buyer must have had reasonable cause to believe he would profit from the company's efforts, not his own.

But judges don't buy that argument with any regularity, and the absence of federal franchising laws leaves the hapless investor out in the cold.

Three attempts to fill that gap have been made in recent years. Two bills to provide federal controls over franchising have died.

One remains, but Sen. Vance Hartke [D., Ind.] says he has been unable to get a hearing on the bill, which he introduced in November of 1971.

The bill would provide for nationwide disclosure and permit victims of fraudulent franchise offers to sue for treble damages. It would also impose criminal penalties of up to five years in prison and a $10,000 fine for deceptive franchise practices.

"Opponents have implied that it [the bill] is the big hand of government interfering in business," Hartke said. "That's not true. It is not a blanket condemnation of franchisers. It is legislation that is needed to protect people who can lose their whole life savings, be fleeced, and yet no law has been broken."

A Downers Grove man found local remedies equally useless when he lost $20,000 in a car-rental franchise owned by Herschell Lewis. Lewis, a veteran franchise promoter, is better known as an advertising executive and producer of horror movies.

Instead of providing 18 one-owner, insured cars and half-a-dozen prize locations for a car-rental business, the company sent the suburban publisher 11 junk cars, found only three depots, and failed to pay insurance.

"The state's attorney's office wouldn't proceed because they didn't think there was provable fraud," he remembers. "The attorney general's office wouldn't do anything. Then I went to three private attorneys, and they said it would cost too much to try to untangle the mess."

Then any hopes he had of getting his money back grew dimmer when Lewis filed bankruptcy, claiming he had no funds to pay $500,000 in refunds demanded by investors in the franchise, the Daily Auto Rental Service.

Bankruptcy Court is a frequent dead-end for investors seeking their money back, but Lewis added a new wrinkle this time. He failed to list his latest venture, Energy Research Corporation, on the petition listing his other business interests.

In fact, the very day he filed his bankruptcy petition, Lewis' partner in Energy Research was telling two Tribune reporters how the partners had poured all their money into the enterprise.

Energy Research Corp., which is selling distributorships for worthless gas-saving devices, was in the midst of a nationwide sales campaign.

SENATOR HELMS LISTS QUESTIONS TO BE ASKED GOVERNOR ROCKEFELLER

Mr. HELMS. Mr. President, I appeared this morning before the Senate Rules Committee which is now considering the nomination of Nelson Rockefeller for Vice President.

Perhaps some of my comments, and some of the questions that I feel should be raised about this nomination, will be of interest to my colleagues.

For that reason, I ask unanimous consent that the text of my statement, plus the questions I raised, and other material, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

STATEMENT OF SENATOR JESSE HELMS BEFORE SENATE RULES COMMITTEE WITH REFERENCE TO NOMINATION OF NELSON ROCKEFELLER, THURSDAY, SEPTEMBER 26, 1974

Mr. Chairman and distinguished members of the Committee, I first want to express my thanks for this opportunity to share with you my views on the nomination of Nelson Rockefeller to be Vice President of the United States.

Let me begin by telling you why I requested this opportunity to testify. I know that you and the Committee and staff have approached this profoundly important task with the diligence, patience and attention to detail that commend your efforts to the

American people. I want to extend to you my personal congratulations in this regard. I mention this only to emphasize the fact that my desire to express my own views on this matter in no way should be seen as a criticism of what has gone before.

Rather, we are faced with a unique question, in that the nominee is a man of considerable significance both as a public and as a private man. We know his record both in international affairs and as the chief elective official in New York State. We know also that, as a man of wealth, he does not stand alone. He stands with a dynasty of *wealth and* power unequalled in the history of the United States. I think we ought, in fairness to the nominee, set aside his protests that the Rockefeller power is a "myth." It would not be fitting for a man of stature to appear before this distinguished committee and boast about his significance. Let us regard his protests, therefore, as a worthy exercise in humility appropriate to the occasion.

But, despite the ritual, our duty as United States Senators remains. We cannot let either personal admiration or animosities interfere with the job before us. In last evening's edition of the Washington Star News, there appeared a headline that I feel did a great disservice to this committee and to the Congress. "They Can't Lay a Glove on Him," said the headline. The story went on to say, "The first round in the title bout between Nelson A. Rockefeller and the U.S. Congress has turned into a lopsided mismatch between a heavyweight and a 'flock of bantams.'"

Now, Mr. Chairman, the metaphors of the prize-fighting world are not those I would choose to describe the kind of important task confronting you. And I very strongly reject any interpretation that is made in the media that this committee is not doing its utmost to discover the truth. Yet the impression is obviously there, at least on the part of one of Washington's newspapers, and it is an impression that must be erased. We all know the power of the media, and the catchy prize-fighting metaphor may well shape the history of these hearings more than the cold and sober record itself.

Let us go, then, to the vitally important question of the public man and the private man, both of whom are the nominee. With most of us, the private man has little public significance. That is not the case with Mr. Rockefeller. The Governor has offered to divest himself of his holdings by putting them in a blind trust. But we have to ask ourselves whether, especially in this unique circumstance, any such divestiture is really meaningful.

This nomination is unlike ordinary executive nominations in that the legislative process is substituting for the electoral process. The scrutiny given the nominee should be as thorough as that given by the seventy-eight million people who participated in the last national election. An overwhelming mandate was given by the people in that election, and that mandate has been circumvented. If we are to have national acceptance of our work here, we must use only the most stringent standards.

A blind trust is an inadequate safeguard when we consider the high nature of the office involved.

Even for the lesser office of Secretary of Defense, Charles E. Wilson was required to divest himself completely of his holdings, most of which consisted of General Motors stock. In the case of Robert McNamara, who was nominated by President Kennedy for the same office, McNamara was forced to sell any investments and holdings in any company holding defense contracts. This was required after McNamara had offered to put those assets in a blind investment trust.

Most recently, Deputy Secretary of Defense David Packard was required to place his holdings, consisting of millions of dollars of stock in Hewlett-Packard, into a charitable trust.

This was in a pre-Watergate era, and the stringent requirements imposed were for lesser jobs.

Although no form of divestiture has ever been required for an elective office, such as Vice President, it is up to the voters to decide in the voting booth whether they want a nominee with certain known qualifications. But because the elective nature of the office has been set aside in our present unusual circumstances, Congress should take no action to approve a nominee who does not meet the most stringent safeguards. The turmoil our nation has just gone through demands no less.

But again I ask, is any divestiture really meaningful—or even possible—in this unique case? If it takes place, can it be genuine? In other words, is the discharge of national public office possible by a man who has played such an important role in private affairs throughout his life? The nominee, as the record clearly shows, has broad connections, not only with a family of rich and powerful men, but with generations of wealth, and with broad philanthropies which collectively adopt a distinctive world view which may or may not be compatible with the discharge of public office. It is not inimical to the nominee, but merely a concession to human frailty, to point out that there may very well be an unconscious commingling of his personal interests with those of the nation.

By the very nature of the situation, the interests of the Rockefeller group and those of the nation are bound to become intermingled in the conduct of affairs of state. The nominee may divest himself or insulate himself from direct personal profit, but the dynastic connection may turn out to be more important than personal control of his immediate wealth.

We are dealing not simply with his own personal fortune, but with the values of a large group of special interests. We are talking not only about finance, real estate, oil, media control and so forth, but about extremely influential philanthropies and public service activities associated with the values of that group. And these values include not only profit-oriented motives, but also attitudes toward abortion as a means of population control, attitudes toward world order, the decline of national sovereignty, relations with Communist nations, human relations, education as a determinant of personality and so forth. The Rockefeller name has been closely associated with the promotion of these attitudes in such groups as the Population Council, The Council on Foreign Relations, the so-called Bildeberger Meetings, the Rockefeller Foundation, and the Rockefeller Brothers Fund. All of these groups operate largely outside of our political system, with its concept of checks and balances. It is very difficult to tell where the profit motive ends and the altruistic motive begins, and where the two become indistinguishable.

The nominee has been very closely associated with these ornaments of the Rockefeller dynasty—with some no doubt to a higher degree than with others. But should we impose upon the nominee the burden of attempting to detach himself from his past? And the question remains whether or not the dynastic connection—which can never be severed—is more important than divestiture of personal holdings. If the nominee is ever faced with the problem of the survival of ingrained dynastic values as against the survival of the national interest, is there any human being on earth who can be sure what will survive?

Mr. Chairman, this country has just been through a time of turmoil and suffering, because a President of the United States and his immediate group believed that the survival of their power was more important than the interests of the nation. This lesson should teach us to be wary of associating unusual power circles with the high office of the Presidency and Vice Presidency. Nothing which I have said here today is intended to reflect upon the integrity or good motives of the nominee; rather, I have been talking about the human situation and the realities of unparalleled power. We are in fact asking ourselves whether we want the highest political offices of the land to be identified with one of the highest concentrations of private power in the land. My appearance here is intended to help the Committee in its deliberations, and to focus more precisely upon the unusual dilemma presented by this nomination.

Many people have written to me from all over the country expressing similar concerns to those I have discussed here today. Many people have submitted questions which they think would help to shed light upon the issues with which we are struggling. From these I have developed a few lines of questioning which I hope the Committee may find helpful, either to be answered by a face-to-face exchange with the nominee so they can be fully developed, or, if necessary, in writing. These lines of questioning examine some of the nominee's areas of activity, including his Administration as Governor, and including areas of dynastic activity. They are designed to help shape a judgment as to whether the nominee in his past career has been able to separate the public and private man. We must not forget that we are acting as surrogates in this matter for seventy-eight million voters.

Mr. Chairman, I submit these questions and ask that they be presented to the nominee. Thank you for your time and courtesy.

QUESTIONS SUBMITTED BY SENATOR JESSE HELMS CONCERNING ROCKEFELLER FINANCIAL HOLDINGS

PREFACE TO QUESTIONS

It is well-known among lawyers that there are two kinds of ownership of property. The first is legal ownership. This is the simple, straight-forward kind of ownership that every citizen is familiar with. The second is equitable ownership. A person has an equitable interest in property when he is the beneficiary of a trust.

(a) I believe that you have testified that you have equitable interests in trust property. Is this correct?

(b) Is the property in which you have an equitable ownership interest of greater value than the property in which you have a legal ownership interest?

(c) May we conclude that in order to accurately understand your holdings, it is necessary to take into account both the trust property in which you own an equitable interest and the property in which you own a legal interest?

(d) Now, it is well-known among lawyers that the equitable owner of trust property does not have the primary responsibility for controlling the property; the trustee, or legal owner, has this responsibility. Nonetheless, the trustee has a duty to control the property in a manner that is in the best interest of the beneficiary.

If a conflict of interest arose between your trust property and your duties as Vice President, would your trustee be free to further the interests of the United States or would he have a legal duty to act in favor of your property against the best interest of the United States?

(e) In this regard, do you have any influence with the trustees of your trust property?

(f) Do the trustees of your trust property take your views and your preferences into consideration in making decisions regarding the handling of this property?

(g) In making decisions regarding that property, which you hold regular legal title to

yourself, do you ever consult with your trustees regarding the effect of contemplated action on your trust property?

(h) Do you and your trustees ever act together regarding such matters?

(i) Do you own an equitable interest in trust property jointly with other members of your family?

(j) Do you and other members of your family ever consult with one another and/or with the trustees regarding the use and disposition of trust property?

(k) It has been widely reported that other members of your family own a great deal of property themselves. Is this correct?

(l) Other than trust property, do you own any property jointly with any other members of your family?

(m) Would it then be accurate to conclude that you and other members of your family do from time to time act in concert regarding business matters?

(n) Can this committee accurately appraise the full power and effect of one segment of the Rockefeller family holdings without taking into consideration all of the other segments of the holdings?

(o) Because of the inter-relationship of your family's properties, would it not be necessary to have a full disclosure of the property interests of all members of your family in order for this committee to fully be appraised of the impact of your property interests on the United States, at home and abroad?

(p) Has such a disclosure been made? Is it contemplated?

QUESTIONS SUBMITTED BY SENATOR JESSE HELMS CONCERNING THE "SECRET PACT" ON THE TRIBOROUGH MERGER

PREFACE TO QUESTIONS

Governor, the question has been raised as to whether or not the influence of your personal holdings, your family holdings, and the holdings of trusts and foundations related thereto is so great that your stewardship of the public trust will inevitably come into a conflict of interest. You have spent a great deal of time explaining why you do not think this to be the case.

Nevertheless, the question has been raised in the work of responsible journalists. I cite specifically the recent book by Robert A. Caro entitled *The Power Broker: Robert Moses and the Fall of New York*. Mr. Caro is reported to me as a journalist of outstanding integrity; his publisher, Alfred A. Knopf, is one of the leading New York publishers. Mr. Caro is a former reporter for Newsday, and a Nieman fellow at Harvard. In Chapter 49 of his book, Mr. Caro alleges that you and your brother David conspired to sign a secret stipulation defrauding the bondholders of the Triborough Bridge and Tunnel Authority of their legal rights in the matter of the merger of the regional public transportation agencies in 1967.

According to Mr. Caro's analysis, your motivation was to use the annual surplus generated in Triborough to make up the deficit of the other agencies; your brother's part was to act for Chase Manhattan, which was the trustee for the bondholders. The need of the Rockefeller administration to cover up deficits outweighed the right of the bondholders to retain the security of their investments. The merger of profitable Triborough with the financially weak agencies diluted the safety of the bondholders' investments. And Chase Manhattan, even though it was supposed to act in a fiduciary capacity as trustee for the bondholders, ignored their interest to protect the Rockefeller political power. If Mr. Caro's account is correct, it is illustrative of the inevitable clash between Rockefeller interests and the public trust. Now I would like to ask some specific questions testing the truth or falsity of Mr. Caro's allegations.

1. Is it true that the covenants between the bondholders and the Triborough Bridge Authority forbade any merger until the bonds were paid off? Would not such a merger dilute the security of their investments?

2. Is it true that Chase Manhattan was the trustee for the Triborough bondholders?

3. Is it true that Chase Manhattan field suit in June, 1967, to protect the bondholders?

4. Is it true that you and your brother met on or about February 9, 1968, to discuss the suit and its impact upon the State of New York policies and upon the rights of bondholders? Where was this meeting held?

5. Who else was present at the meeting?

6. Is it true that a legal stipulation was signed at this meeting by yourself on behalf of the State of New York and by your brother David? (If such a stipulation were signed in addition or instead by others, who were they?)

7. Was this stipulation sealed by New York State Supreme Court Justice William C. Hecht, Jr., or any other judge? Why was it sealed?

8. Who else has seen the stipulation, to your knowledge, or is familiar with the contents?

9. Did the stipulation indeed result in the withdrawal of the suit filed on behalf of the bondholders?

10. What considerations may have motivated the trustee, Chase Manhattan, to step down from its defense of the bondholders?

11. Can you identify, to your knowledge, the ownership of those bonds?

12. How did the merger satisfy the interests of the bondholders?

13. Did the bondholders receive any other consideration as a result of the stipulation or as a result of any other agreement, oral or written?

14. Did Chase Manhattan receive any consideration from the State or from any other public authority as a result of any such agreements?

15. Can you supply a list of New York State bond issues during your administration in which Chase Manhattan participated, alone or in syndication, as underwriters, alone with the dollar amounts involved?

16. What would be the extent of underwriters' fees for such bonds?

QUESTIONS SUBMITTED BY SENATOR JESSE HELMS CONCERNING THE ROCKEFELLER STAND AGAINST HUMAN LIFE

PREFACE TO QUESTIONS

Governor Rockefeller, your name and the name of your family has been intimately associated with the anti-life, pro-abortion movement both in the United States, and throughout the world. You yourself have testified about your action in signing a pro-abortion law in New York State and in voting a repealer that had passed the legislature by a comfortable margin.

1. Do you regard human life as sacred, even if that human being has not yet been born, and even if that human life still needs the protective environment intended by God to keep him alive?

2. Do you believe that a mother has the right to kill her unborn child, even if that child cannot yet survive outside the womb?

3. On many occasions in the past few months, both the Senate and the House of Representatives have overwhelmingly voted to protect the life of the unborn, the most recent time only a few days ago. As Vice President of the United States, and as President of the Senate, would you use your influence with the President of the United States to see that the will of Congress is upheld by signing such legislation into law? If you should succeed to the Presidency, would it violate your conscience to sign anti-abortion legislation into law?

4. Would you supply for the record the amount of contributions which the Rockefeller Foundation, the Rockefeller Brothers Fund, Chase Manhattan Bank, or any other Rockefeller family interests, including personal contributions, have made to the following:

Population Council.
Population Crisis Committee.
Association for the Study of Abortion.
Pathfinder Fund.
Planned-Parenthood—World Population.
Population Reference Bureau.
Population Crisis Committee.
UN Fund for Population Activities.

5. Some of these agencies receive tax funds from HEW, AID, OEO, and so forth. Would you see any conflict of interest in recommending that the Administration increase tax funds to agencies organized and partially funded by Rockefeller interests?

6. To what extent do these support abortion programs as a method of family planning?

7. To what extent do these agencies support research on methods of abortion or methods of promoting abortion or of inducing people whose cultural values reject abortion to accept abortion anyway?

8. To what extent do these agencies support research, manufacture, or distribution of drugs or devices which destroy the fertilized ovum or the fetus before birth?

9. How many induced abortions have been performed in New York State since you signed the New York abortion statute into law?

10. Does Chase Manhattan Bank make loans to abortion clinics or centers, or otherwise support their operation?

QUESTIONS SUBMITTED BY SENATOR JESSE HELMS CONCERNING DR. KISSINGER AND NIXON-ORDERED WIRETAPS

(1) At any time during the administration of President Nixon, was any information regarding wiretaps transmitted to you from White House or other sources?

IF YES

(2) At the time that this information came to you did you have any reason to believe that the persons transmitting this information were doing so without the approval of their superiors?

(3) Did you pass on to Dr. Kissinger, or any other person, any information regarding wiretaps that you received from such sources?

(4) Did you at any time receive any information from any source that President Nixon intended to place wiretaps on the telephones of members of Dr. Kissinger's staff? If so, who supplied you with this information, and did you relay it to Dr. Kissinger?

(5) It is well-known that Dr. Kissinger formerly served as your advisor for foreign affairs. Did Dr. Kissinger continue to enjoy a confidential relationship with you after he became the Head of the National Security Council?

IF NO TO FIRST QUESTION

(2) During the Watergate hearings, John Dean testified under oath that you tipped off Dr. Kissinger, then Head of the National Security Council, about plans of President Nixon to place wiretaps on the telephones of members of Dr. Kissinger's White House staff.

Would you comment on this?

(3) It is well known that Dr. Kissinger formerly served as your advisor for foreign affairs. Did Dr. Kissinger continue to enjoy a confidential relationship with you after he became the Head of the National Security Council?

[From the Washington Post, Sept. 26, 1974]

MR. ROCKEFELLER: MONEY AND ECONOMIC POWER

In a television interview the other day, Sen. Howard W. Cannon laid out what seems to us to be the proper rationale for the hearings now under way on the nomination of Nelson A. Rockefeller to be Vice President. Mr. Cannon expressed the belief that while Congress ought not to reject a nominee for this office because his political views are at variance with its own, Congress has an obligation to ask a good many questions about the nominee's views. That way, he explained, the public "would have the opportunity to learn what his views are and to know something about this man whom they did not have the opportunity to vote for." In essence, the hearings serve to replace the campaign which normally precedes the election of a President and Vice President.

Under this rationale, the Senate Rules Committee is quite properly exploring Mr. Rockefeller's actions as Governor of New York on such diverse matters as Attica, abortion, tax increases and intervention with the federal government on behalf of the Grumman Corporation. These are matters which are important in terms of public understanding of the man and his views on public policy, even though Mr. Rockefeller's answers are not likely to affect the outcome of the nomination. A nominee under the 25th Amendment ought generally to be confirmed unless he is demonstrated to be incompetent or corrupt, and we know of no serious allegations made about Mr. Rockefeller in either connection.

This same rationale seems to provide the best framework in which to consider Mr. Rockefeller's financial holdings and the potential conflicts of interest they could create. The conflict of interest laws on the books cannot apply to Presidents or Vice Presidents, nor should they. Even if they did, the customary ways by which other public officials have handled their money won't work in Mr. Rockefeller's case; he simply has too much of it. He can't be asked to dispose of his holdings in various companies whose financial success may be affected by decisions in which he would be involved as Vice President or President; the holdings are so large as to make the impossible; besides, what would he do with the cash? He can't be asked to isolate himself from decisions which might have an impact on companies in which he has a financial interest; that would make him a neuter, because few decisions of government fail to touch some Rockefeller interest somewhere. Even the idea of a "blind" trust, which he has said he will establish, fails to make much sense; Mr. Rockefeller's present assets are so large that they cannot be shifted easily. That alone defeats the whole purpose of a blind trust—which is that the public official will not know what securities are in it.

So the question comes down to a matter of public disclosure of assets and of public confidence in Mr. Rockefeller's honesty. If he were involved in a presidential election campaign, the size of his fortune and the manner in which he has used it would be an issue for the voters to decide. They would determine whether it presented a potential conflict of interest sufficient to deny him the office or whether they had sufficient trust in his personal integrity to elect him. Since there is no popular election in this situation, that decision is up to Congress and it ought to be made on the basis of Mr. Rockefeller's record in public and private life.

So far as we know, there has been no serious allegation that Mr. Rockefeller ever permitted his financial position to influence his decision as Governor of New York, as Under Secretary of HEW, as Assistant Secretary of State or in any of the other public offices he has held during the past 34 years. Unless something new arises, we see no reason for Congress to pursue the matter of his personal finances much further. The record of his public service speaks for his personal honesty.

Some senators, however, have expressed an understandable concern about the concentration of economic and political power that would be in the hands of a Rockefeller in the White House. And Mr. Rockefeller's response to that concern—in essence, a denial that the Rockefeller family holds substantial economic power—is not altogether reassuring. Indeed, it is a bit naive. The Rockefeller economic power may not exist in terms of a company-by-company analysis or in terms of outright control of particular companies. But it does exist in the minds of most Americans. Most businessmen would react quite differently if a Rockefeller-backed enterprise went into competition with them—or if they were invited into joint participation with such in a venture—from the way they would if it were a John Doe-backed venture. The power is there and is real to most people even if Nelson Rockefeller doesn't think it exists.

Mr. Rockefeller's failure to understand the way most Americans look upon his family's wealth is not necessarily a shortcoming. It simply reflects the fact that people of such extravagant wealth often fail to understand that their lives, their influence and their power are different in kind from that of other Americans simply as a function and consequence of that wealth.

Here, again, the only way Congress can resolve this question of a concentration of power is to look at Mr. Rockefeller's record. Has the melding of political power in New York State, where he served as governor for 15 years, with the economic power of his family in New York City been used in ways detrimental to the public interest? If it has not, that is the strongest evidence available that a similar concentration of power in Washington will not be dangerous to the country.

[From the Washington Post, Sept. 22, 1974]

ROCKEFELLER FAMILY HOLDINGS TOUCH EVERY ECONOMIC SPHERE

(By William Greider and Thomas O'Toole)

The question of how much money Nelson Aldrich Rockefeller is worth seems like quibbling over mere millions because, in reality, the Rockefeller family together exercises awesome economic power, so vast that it dwarfs Nelson's individual fortune.

The Vice President-designate says he is worth $62 million. Make it $132 million with two of his trust funds. Maybe there is even more. It hardly matters.

Congress, which must confirm him, may find the Rockefeller nomination poses a much deeper question about power in America—whether the complex and largely hidden economic power which the Rockefeller family jointly holds, which Nelson shares, which stretches across the nation's economy, and the world's shall be twinned with the second highest political office in the land or even with the presidency itself.

Oil, banking, airlines, real estate, insurance, retailing and communications, hotels and supermarkets, electronics and mutual funds, coffee beans and chickens. The power of the family fortune is beyond measure, too, a nexus of ownership and leverage that is greater than the sum of its parts. It is more powerful than most foreign governments, more impressive than the RCA Building which the family built, richer than the Rockefeller who started it all 80 years ago, Nelson's grandfather, John D. the First.

If Nelson Rockefeller becomes Vice President, or events make him President someday, he will bump into his family's wealth on practically every major public issue.

As President, he would have the last word on chartering overseas air routes, yet his family's bank is the largest stockholder in Northwest Airlines, which flies the Pacific. The bank holds major stakes in six competing airlines, not counting Eastern which Nelson's brother Laurence launched.

If President Ford wants oil prices held down, he could speak to the ones who could talk to his family. They control the largest bloc of Exxon stock and have a substantial presence in three other major oil companies: Mobil, Amoco, and Standard of California.

If "Vice President" Rockefeller tours the Middle East, he may find tracks in the sand left by his brother, David who, as chairman of Chase Manhattan, the family bank, has been consulting the Arab sheikhs on where to invest their money—the bulging fortune from their oil wells.

If "President" Rockefeller asks the CIA for intelligence on the Soviet Union or China, he could take comfort in the knowledge that the spy-plane reconnaissance photos were taken with Rockefeller-made electronic gizmos.

If he wants to check on conditions in Latin America, the stomping ground of his youth, he can do it through his own personal company—IBEC, or International Basic Economy Corp.—now run by his own Rodman. It's a mini-conglomerate with affiliates in 30 countries and sales this year of more than $300 million—housing and supermarkets, mutual funds and coffee marketing, poultry and canned fish.

If the television networks give "Vice President" Rockefeller a bad time, he might turn to a friend at Chase Manhattan. According to a Senate subcommittee's study of corporate ownership, the bank controls respectable minority blocks of stock in CBS, ABC and NBC, not to mention modest bites of The New York Times and Time-Life Inc.

Taxes, the environment, government regulation of business, prices, interest rates, overseas diplomacy, war and peace—Rockefeller interests are enhanced or hurt by government policymaking in practically every major area of American life.

When Nelson Rockefeller became governor of New York 15 years ago, he and the family discreetly got out of some holdings which created obvious conflicts for him. Consolidated Edison, New York's premier power company, was one of them, according to family associates, although Rockefeller was raked over the coals for years afterwards" on that issue. Another was United Nuclear Corp., which the family bought because Nelson was enthusiastic about atomic energy. He started a state version of the AEC and the Rockefeller money managers quietly sold the family's United Nuclear stock.

At the federal level, however, it is difficult to imagine how Rockefeller could insulate himself from the vast interests which his family controls. He can't very well put Rockefeller Center—a billion-dollar complex of skyscrapers in midtown Manhattan—into a blind trust. As Vice President or President, he couldn't very well disqualify himself every time a policy decision potentially affected Chase Manhattan Bank. He would be out of work if he did. Even if Rockefeller took a vow of poverty, this empire would remain intact, still dominated by his family.

But the Rockefeller wealth goes beyond the conflict of interest question. Most people assume Rockefeller already has so much money, he wouldn't shave corners to get a little more. The problem is really the other way around—what impact would that great economic power have on government and politics if it were marshaled in tandem with presidential power?

What would a middle-level bureaucrat do, for instance, if he knew he was regulating the President's family fortune? Would a senator or congressman be able to resist the combined might of the White House and Wall Street's second largest bank, not to mention all the corporations which do business there?

The first Senate hearings begin Monday and Congress will have to decide if these questions have answers. It is a unique crossroads. Rockefeller faces close congressional scrutiny because he was nominated, not elected, under provisions of the 25th Amendment. No other politician of great wealth has had to travel that route.

The only other non-elected Vice President in history—Gerald R. Ford—had his personal finances picked over with a fine-tooth comb during last year's confirmation hearings, but congressional investigations despair over doing the same with Rockefeller. It could take months, maybe years.

This is a crude portrait of Rockefeller economic power one which probably misses as much as it describes. For two generations, the great fortune passed down by John D. has been fractionated and cloaked by increasing layers of trusts and closely held companies, where no public reports were required, none volunteered, and all inquiries politely rebuffed.

The family's philanthropy has virtually erased the robber baron image which clung to its patriarch. The infamous Standard Oil Trust which John D. put together was broken into many pieces by a Supreme Court ruling in 1911. In 1930, the family bought 4 or 6 per cent of Chase Bank, enough to control it. Through a half-dozen foundations, the family name became better known for giving away money to promote health, education, civil rights, conservation and population control among other causes.

But the private fortune is still there, only less visible. Nelson, his four brothers and his sister each got trust funds plus direct inheritances. Other trust funds were created as fourth generation Rockefellers came along. Each owns houses or cars or vacation homes or Caribbean resorts, whatever suits him or her.

The Rockefeller money, however, is still managed at one place—two floors at 50 Rockefeller Plaza—where an investment agent called Rockefeller Family and Associates handles the labyrinth of trusts and bank accounts, with policy directives set by the brothers. Their sister, Abby Rockefeller Mauze, is believed to be a less active partner.

J. Richardson Dilworth, nephew of the former Philadelphia mayor, runs it and when Dilworth's name turns up on a board of directors—like R. H. Macy's or Chrysler Corp., among others—Wall Street assumes that he is there to watch after Rockefeller money. Other Rockefeller surrogates from the investment group serve on boards where the family has a direct stake. Operating at the same address are batches of other experts on topics ranging from ecology to urban development, hired by the brothers to pursue their individual interests.

"I can tell you that each brother has his own show," said Fred Smith, a conservation expert who advises Laurance Rockefeller. "There is fine coordination at a very high level. They have meetings of the brothers to discuss policy, but each brother does as he pleases."

The empire is not a single-minded monolith. Each brother has sunk his own money into his own schemes, usually joined by the family if the venture prospered, and several of them have proved spectacularly adept at making still more money, not to mention giving it away.

Different as they are, the brothers work well together. When David was caught up in an environmental controversy over a San Francisco Bay fill project, he asked brother Laurance if the ecological damage would be as bad as the critics warned. Laurance looked it over and advised David to get out. He did.

Nelson and Laurance still call each other "Bill," the childhood nickname they gave one another, the way kids do. When Laurance writes Nelson, he addresses him, "Dear Bill." Nelson's reply always begins, "Dear Bill."

Nelson, whose business ventures have been comparatively few, is the politician in the family and his most spectacular spending has been on his own campaigns. One foundation study calculated that since 1952 his state and national campaign expenditures have exceeded $27 million.

At present, he and Laurance have sunk $1 million each into the Commission on Critical Choices for America, which Nelson chairs. This prestige forum will give him good political publicity prior to the 1976 campaign and his spending on the commission is not subject to the $100,000 legal limit on what a candidate and his family can donate to his own campaign.

His public service notwithstanding, Nelson has also done his turn at family enterprises. At age 28, he was a director of Creole Petroleum, the Exxon subsidiary that markets oil from Venezuela. He did a stint at the Chase. He was rental agent for Rockefeller Center in the 1930s (and earned a reputation for hard-nosed tactics when he struggled to fill up the new building with tenants). He launched his own corporation in Latin America, intended to bring American know-how to the markets of underdeveloped nations.

Of all the enterprises, Rockefeller Center is the brightest gem in the family crown. It is a maze of 21 skyscrapers on almost 24 acres of Manhattan heartland that is the world's largest privately owned business.

Nobody but the stockholders (the four surviving Rockefeller brothers, Nelson, John D. III, David and Laurance, their sister, Abby, and the heirs of their brother Winthrop, who died in 1973), and a handful of Wall Street bankers know its true value, but the educated guess of New York's real estate crowd is that Rockefeller Center, land and buildings, is worth $1 billion. Realtors talk about it with reverence, as if it were a work of art instead of a land development.

"It's beautiful real estate, the best in New York," said one realtor. "God knows what the middle of New York would look like if Rockefeller Center hadn't been built there."

Rockefeller Center is so immense that even the Rockefellers don't own all of it. Columbia University owns the 510,000 square feet where the first 14 buildings were built. This land was reappraised a year ago for the first time in 40 years and the land alone was valued at $180 million.

The original buildings on Columbia's land are all owned by Rockefeller Center, Inc., and while they're not worth as much as the land (because the land fronts Fifth Avenue and the buildings are 40 years old) they're not worth much less, maybe $160 million.

Rockefeller Center's so-called new land, all of it owned by the Rockefellers, lies along Sixth Avenue. They have entered into joint agreements for ownership and management of the buildings, whose tenants include many of the premier corporations in America—Time-Life, Exxon, McGraw-Hill, Celanese.

Beyond the value of the land and buildings, Rockefeller Center has an unappraised aura all its own—worth as much as $200 million, according to one realtor. "If these buildings all had to be replaced today, they would cost well over $1 billion," he said.

To measure Rockefeller power, however, you have to look beyond what they own directly. The family's string of tax-exempt foundations, large and small, represents a vast pool of money, not only for the Rockefeller philanthropy, but for compatible ownership of stocks.

Thus, the Rockefeller Foundation, which John D. III chaired for years, reported 1972 assets of $976.9 million and about $362 million of it was invested in oil stocks (although the foundation's oil holdings used to be even larger). The Rockefeller Brothers Fund, where the family is heavily represented on the board and Nelson is an honorary trustee, had $268 million in 1972 with $67 million in oil companies.

Exxon and Mobil led the list. If you throw in the huge blocks of oil stock held and controlled by Chase Manhattan's trust department for anonymous owners (some of whom are probably named Rockefeller), it comes to a total of about 8.6 million shares of Exxon, almost 4 per cent, the largest chunk of stock in the world's largest oil company.

Even that rough estimate might be too low. A source inside the company figures that the "family holdings" total about 9.9 million shares.

Besides Exxon, the real leverage is at Chase Bank, total assets of $8.8 billion last year. Again, everyone knows the Rockefellers control it but nobody outside the family can say precisely how much they own of it.

Board Chairman David, the only Rockefeller required to report his holdings, had 337,500 shares at last count, about 1 per cent. The Rockefeller Brothers Fund had another 148,000 shares. Rockefeller University, a unique graduate-study and research center in Manhattan, held 81,000 shares. Back in 1964, when House Banking Committee Chairman Wright Patman (D-Tex.) studied bank ownership, Rockefeller Center, Inc., (which is wholly owned by the family) owned 86,200 shares. That has presumably doubled through two stock splits in the intervening years. Today, Rockefeller Center, Inc., won't tell how much it owns of Chase Manhattan Bank.

Control of the bank and its trust department has the effect of multiplying the family's economic leverage far beyond the limits of the Rockefellers' wealth. Every major bank in New York holds millions of shares in their trust departments for other owners—most of whom give the banks the power to vote the shares and, thus, influence corporate management.

Chase's trust department, with the bank's companion investment management corporation, controls the single largest block of stock in United Air Lines, Northwest Airlines, Long Island Lighting, Atlantic Richfield Oil, National Airlines, to name a few. It holds important chunks in a galaxy of leading corporations—AT&T, IBM, Sperry Rand, International Paper, Motorola, ITT, Avon Products, Safeway Stores.

Major banks like Chase protest that their enormous trust holdings do not give them control over a corporation, that their stewardship is rendered neutrality on behalf of the anonymous owners. Wall Street has many skeptics, and so does Washington.

"It is reasonable to assume," said one well-known oilman, "the Chase would not have its trust holdings in a mangement of which they did not approve."

Thus, Chase Manhattan is a good place to be if you want to take part in crucial decision, of capital and control which can alter the structure of American business. The board of directors represents a bewildering maze of interlocking interests, often competing companies sitting down side by side at the same table to discuss where the economy is headed, who's winning and who's losing.

To make it simple, here are the corporations represented on Chase's board by their chief executive officers or their own board chairmen:

American Smelting and Refining, Honeywell, Allied Chemical, General Foods, Hewlett-Packard, Exxon, Federated Department Stores, AT&T, Royal Dutch Petroleum, (Shell), Burlington Industries, Equitable Life Assurance, Standard Oil of Indiana. The Chase executive officers all serve on other corporate boards and some of them see each other again in foundations, clubs, and civic endeavors.

America's commercial airlines represent

one example of how the Chase bank exerts industry-wide leverage. According to a new report compiled by the Civil Aeronautics Board, the bank holds about 12 per cent of National, 9 per cent of Northwest, 8 per cent of United, 7 per cent of Overseas National, 6 per cent of TWA, 5 per cent of Delta, 4 per cent of Braniff, and other lesser holdings.

While Chase holds stock in airlines, the bank also lends them a lot of money. Last year, two Senate Government Operations Subcommittees jointly investigating corporate power disclosed that 14 airlines owed *$274 million* to Chase Manhattan. Pan Am owed $20.8 million. Continental owed $95.5 million.

Credit also flows from large insurance companies and the Rockefeller interests are well represented on the board of Equitable Life, a mutual company owned by its policy holders but, of course, controlled by its directors. Equitable held notes worth $241 million from five major airlines—Pan Am, United, TWA, American and Eastern.

While the issue is debatable, some critics think the debt structure gives the big banks and insurance companies more control over significant corporate decisions than the stockholders have. A Senate hearing earlier this year was told that Mohawk Airlines was forced to merge with Allegheny because it was unable to increase the size of its credit. It was Chase Manhattan which told Mohawk it would call its loans unless the airline found new capital to buy replacement aircraft. The only place Mohawk could find the money was with Allegheny.

"While many marriages are made in heaven, this one was made in the vaults of Chase Manhattan Bank," claimed Reuben B. Robertson III, a consumer advocate on aviation issues. "While the stockholders' interests were substantially diluted, Chase and the other participating lenders emerged unscathed."

When the Civil Aeronautics Board set up an advisory committee on finance a few years ago, Chase, Equitable and Rockefeller Family & Associates each had a man on the nine-member board.

The man from the Rockefeller family on the committee was Harper Woodward, a director of Eastern Airlines and one of those surrogates who serves in place of a Rockefeller. Eastern Airlines first took off in 1938 with the help from Laurance Rockefeller (who also gave an early boost to McDonnell Aircraft). He still owns 49,000 shares. Chase holds 240,000 shares. According to an associate, Woodward sat in for him on the Eastern board when Laurance tired of the chore.

Laurance is best known to the general public as a leading conservationist, but he has also been the family's most adventurous investor, putting money on new ideas which proved to be profitable. He owns all of Eastern's preferred stock (216,736 shares), which he acquired seven years ago when he sold the airlines a majority interest in several luxury resorts which he developed—the Dorado Beach and the Cetromar Beach in Puerto Rico, the Mauna Kea in Hawaii.

Eastern still owns the Puerto Rican hotels, but it sold Mauna Kea back to Laurence when it failed to win CAB approval for a Pacific route to the island state. In the deal, Eastern received a 40 per cent interest in Rockefeller resorts, properties valued at more than $100 million, developed and mostly owned by Laurance.

The Rockefellers have used their personal fortunes imaginatively over the last generation, seeding new ventures with a genuine feel for risk and new technology, like a family game of Monopoly, only they play with real money.

Rockefeller cash—perhaps no more than $30 million over the past two decades—has provided crucial seed money for a long list of struggling companies, at least a dozen of them. "We always invested this money as a minority interest, never more than a one third interest," said Teddy Walkowicz, a longtime member of the Rockefeller Family & Associates who resigned his partnership a year ago. "The philosophy was to help people get started and to attract other investors to fields blossoming but still too risky for people to put money in them."

The Rockefeller venture companies may never make Fortune's "top 50" and their names are not household words—Evans and Sutherland Computer and Iomec Inc. and Safetran Systems and Scantlin Electronics. Others are fair-sized concerns which more than returned the original investment.

GCA, Inc., makes rocket-borne precision instruments and has sales of about $30 million a year. The best known Rockefeller-backed company is Itek, Inc., which grew from nothing back in 1957 to a company doing more than $200 million a year. Itek is believed to have made the high-altitude spy camera aboard Francis Gary Powers' U–2 plane and it makes the cameras for Air Force spy satellites.

The driving force behind GCA and Itek was Laurance Rockefeller, but all the brothers lent a hand. They helped start GCA with $500,000 and their original investment in Itek was only $750,000. The family is understood to have sold most of its holdings in both.

Not all of the Rockefeller moves have turned to gold. Scantlin Electronics, now called Quotron, pioneered in the electronic stock calculator, then watched as two large companies (General Telephone and Bunker-Ramo) muscled their way into the field. Today all three are hurting as the stock market falls.

Another Rockefeller vision—an integrated nuclear power company with uranium mines and atomic power plants—led to United Nuclear Corp., which lost money for years. The uranium mines were profitable, but the power plants were sold for nuclear submarines, not cities, at losses.

Nelson Rockefeller himself had some hard times as a businessman when he launched International Basic Economy Corporation back in 1947 in Venezuela with $8.5 million of Rockefeller seed money. It has never been a big moneymaker, but the founder's main intent was economic development. The corporation was once refused a charter by New York State on the grounds that its stated purpose was "not" to make money.

Some of his early moves were flops and Nelson still jokes about them, according to associates. Once his development experts advised a grain-marketing center would go in one South American country. After it was built, they noticed there were no trains to ship the commodity.

In Venezuela, Rockefeller motorized the Caribbean fishing boats to encourage the fleet, but the fishing captains instead went into the charter business. When it got the fleet organized, IBEC decided to freeze the fish for marketing, and learned too late that Venezuela housewives insisted on fresh fish.

IBEC is a lot healthier and more diversified now. It operates what may be the world's only wholesale supermarket outside Sao Paulo, Brazil. One retailer drives 3,000 miles once a month to shop there, buying stocks for his stores in the Amazon jungle. In Venezuela, where IBEC has 48 supermarkets, the Vice President-designate also owns an 18,000-acre ranch and part of a milk distribution concern.

In recent years, the Rockefeller interests and their corporate allies have been singed by the nationalism burning across Latin America. In Peru, a subsidiary of Exxon lost its oilfield concession. In Chile, Anaconda Copper, which then had two interlocking directors with Chase Manhattan, lost its huge copper mine, although the new Chilean government has indicated its willingness to compensate the company for the mine.

In Venezuela, where IBEC does its biggest business, the government proposes to reduce foreign holdings in all businesses to 20 per cent by 1977.

"We're not traumatized at the thought of going down to 20 per cent," said IBEC vice president Harvey Schwartz. "We would like to stay in Venezuela . . . We happen to feel very strongly pro-Venezuelan."

In Chile, the Marxist government of Salvador Allende expropriated Concretos Redi-Mix, an IBEC cement plant. After Allende was toppled last year in a military coup, the new government offered to give it back. An IBEC spokesman said the corporation isn't sure it wants it.

The irony is that the Rockefellers are criticized from both the left and the right in this country for the way they have reacted to upheaval overseas. Some conservative businessmen argue, in private, that if Exxon and other major oil companies had used their economic power more forcefully in South America and the Middle East, they might have stemmed the tide of expropriation and higher taxation. The far right thinks Rockefeller money is in league with the communists.

Meanwhile, left-wing critics think Rockefeller is part of a Central Intelligence Agency plot, a suspicion encouraged by his tenure on the Foreign Intelligence Advisory Board and his association with such right-wing businessmen as Augustin Edwards, publisher of El Mercurio in Chile, and once a director of an IBEC mutual fund. Edwards has been named in congressional hearings as a probable recipient of CIA covert funds.

It is the sort of dilemma which could provoke future controversy if Rockefeller becomes Vice President. IBEC and Chase Manhattan, for instance, have some of their overseas investments covered by the federal government's Overseas Private Investment Corp., an insurance system which dominantly protects large American corporations against such calamities as war damage or expropriation without fair compensation.

If IBEC filed an insurance claim with OPIC on a supermarket or a concrete factory, it would be pennyante to Nelson Rockefeller. But how would it seem to the government claims adjuster?

[From the Washington Post, Sept. 22, 1974]

FROM SW RENEWAL AREA TO FOXHALL: ROCKEFELLER'S BIG INVESTORS IN THE DISTRICT OF COLUMBIA

(By Eugene L. Meyer)

A tailor by trade, Jimmie Muscatello is chairman of a small businessmen's group fighting planned development of high-rise, high-rent office buildings in the old downtown between the White House and Capitol Hill.

Muscatello fears the Rockefeller family because it has played a major behind-the-scenes role in the redevelopment of central Washington, a redevelopment which has virtually excluded small independent merchants.

The Rockefellers own a substantial portion of the Southwest urban renewal area—approximately 40 percent of L'Enfant Plaza, the $100 million office-hotel-shopping complex that is the highest valued District property and the largest completed commercial urban renewal project in the country.

The Rockefeller family's impact on the District of Columbia is small compared with its role in New York City, where Rockefellers owned the land on which the United Nations building rose, raised substantial money for construction of the Lincoln Center and built Rockefeller Center in midtown Manhattan.

The Rockefeller involvement here is less publicized and less personalized; it is tied more to money than moxie.

It includes the 25-acre estate of vice president designate Nelson A. Rockefeller, at 2500 Foxhall Rd. NW, which is valued by tax as-

sessors at more than $2 million and has been appreciating in recent years at an annual rate of about 25 per cent.

The property contains a pond and a house built in 1790 by a Revolutionary War colonel who led his troops in battle with the Continental Congress for their pay. The land eventually became part of the Glover Archbold estate. Rockefeller acquired it in stages, starting in 1948.

The property is not listed in Rockefeller's name. The owner of record is Paul H. Folwell, an attorney with the New York law firm of Robert R. Douglass, legal counsel to Rockefeller when he was New York's governor and the man designated as his personal liaison with Congress during nomination proceedings.

Folwell, reached at his New York office, said the use of his name "doesn't mean anything. Everyone knows Mr. Rockefeller owns that property."

Godfrey A. Rockefeller, a distant cousin, who maintains residences here and on Gibson Island, Md., said, "Members of the family use (the property) when they're down here."

The property is regularly listed as among the 10 highest assessed residences in Washington. The 1974 tax bill came to more than $37,000.

In Washington, some Rockefeller interests are in the hands of retired Air Force Gen. Elwood R. R. (Pete) Quesada, president and board chairman of L'Enfant Plaza. Quesada also is the presidentially appointed chairman of the Pennsylvania Avenue Development Corporation.

The corporation was created by Congress to redevelop 23 acres on Pennsylvania Avenue's north side, with power to condemn property and subsidize developers by selling them the land at a discount. No small businessmen serve as corporation directors.

"We fear big money, anybody's big money,'" Muscatello says.

"You got to remember," Muscatello said of Quesada and downtown development, "he fronts for the Rockefellers, and Rockefeller has been nominated to be vice president. . ."

Quesada bristles at such suggestions. "The Rockefellers have nothing to do with Pennsylvania Avenue."

He has had no discussions with the Rockefellers about investing on Pennsylvania Avenue, he said over lunch recently at the L'Enfant Plaza hotel, but he did not foreclose such discussions.

"Anybody would welcome them, and everybody should," he said.

Quesada, a native Washingtonian, brought banker David Rockefeller into L'Enfant Plaza as a major investor nine years ago.

Rockefeller, in turn, brought in his son, David Rockefeller, Jr.; his sister, Abby Rockefeller Mauze; his brother, John D. Rockefeller III, who is generally known more for his concern with population control and the bicentennial, and his nephew, John D. Rockfeller IV, former West Virginia secretary of state and current president of West Virginia Wesleyan College.

David Rockefeller also brought in Chase Manhattan Bank, of which he is board chairman, and of which his brother Nelson is said to be a large shareholder.

While Nelson has no direct interest in L'Enfant Plaza, he recently considered—then rejected—the idea of moving a staff into one of its office suites for the nomination hearings. The Rockefeller staff is located instead at 1100 17th St. NW.

According to papers on file with the D.C. urban renewal authority, ownership of the $30 million L'Enfant Plaza hotel-office building in May, 1971, gave the combined Rockefeller interests 39.1 per cent of the stock, divided this way—Chase Manhattan, D.R. Associates and nominees, 28.1 per cent; John D. Rockefeller III and John D. Rockefeller IV, 5.5 per cent, and Abby R. Mauze, 5.5 per cent.

According to Quesada and to additional information on file with the D.C. corporation records office, Rockefeller holdings in the rest of the L'Enfant project are similar, with David Rockefeller Jr., as an added shareholder.

Quesada said he asked the Rockefellers to invest in L'Enfant Plaza because "I knew they were civic-minded and interested in urban development."

It was 1965 and New York real estate magnate William Zeckendorf—the original redeveloper of Southwest Washington—was in financial trouble.

"I had sold my interest in the Senators," Quesada said. "I was foot loose and fancy free." He became interested in L'Enfant Plaza, and Zeckendorf suggested he take over development of the entire project, then existing only in model forms.

Quesada said he could finance one building, but not four. He contacted Laurance Rockefeller, "a longstanding friend" from aviation circles. "Laurance said, 'I don't do that sort of thing. David does. I'll put you in touch with him.' David sent a fellow down here, looked over the project and said yes.

"He put in one-half of the equity, and I put in one half," Quesada said, declining to state dollar amounts.

Work on L'Enfant Plaza began in late 1965 and was completed last year, when the hotel opened and the west office tower was sold for $30 million to the U.S. Postal Service. The L'Enfant Plaza Corp. continues to control the rest, through a 99-year lease with the D.C. Redevelopment Land Agency, the urban renewal authority, which still owns the land underneath.

Recently, the L'Enfant Plaza Corporation has tried to control some development beyond its own borders in Southwest, opposing subsidized housing for poor and moderate-income families and battling commercial enterprises that could compete with its own.

The opposition has taken the form of court suits against the housing project across the Southwest Freeway, against a waterfront motel that wants to build 150 rooms instead of the 100 originally approved, against the nearby Nassif Building, which let ground floor space to a bank and drug store.

To date, L'Enfant Plaza has won the suit, while the others are pending.

The legal battle over the subsidized housing has divided Southwest, with some adjacent townhouse owners siding with L'Enfant Plaza in opposition and other citizens and community groups favoring the project.

Seeking to separate the Rockefellers from this dispute, Quesada said last week, "I and I alone am responsible for that suit."

The L'Enfant Plaza Corp. is doing "all right" Quesada said, but he refused to provide details about the private corporation's finances.

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49. The Last Stand

(From "The Power Broker: Robert Moses and the Fall of New York," By Robert A. Caro. Alfred A. Knopf, New York, 1974)

Rockefeller had been laying his transportation plans out for eight years. Now they were ready. Ronan had filled in the details. Lindsay's attempt to take over the transportation setup had been the final factor in determining the Governor to move to implement them. If there was going to be a takeover it was going to be *his* takeover. And therefore, the Governor seemed to feel, it was time for Moses to go.

To implement his grand conception, the Governor needed money, a particular kind of money—seed money.

It was, of course, impossible, in so inflationary an era, to calculate with precision the cost of the network of highways, mass transit facilities and airports of which he was dreaming. If he had even a rough estimate, moreover, he made sure it was never revealed honestly to the public—for a very sound political reason when dealing with a Legislature in which upstate conservatives played a prominent role: it was almost unimaginably huge. One estimate, probably far too low, was that, if begun in 1968, it would cost $6.4 billion in the next five years alone. Much of this money Rockefeller had to obtain from the federal government, but federal contributions were determined in some cases by state and local participation in the funding. That meant local money. In almost all cases federal contributions were dependent on state and local planning—Nelson Rockefeller had learned what Moses knew: that it was the state with plans, not vague proposals but detailed blueprints, ready when new federal appropriations became available, that got the federal money. And certain pieces of the grand conception could not be built by the federal government at all, because the only way to make their building feasible was to make them toll or revenue-producing facilities, for which federal expenditures were prohibited.

But state and local money on the scale the Governor needed was simply unavailable: eight years of his massive spending had reduced the state to a condition in which it was all but impossible for him to meet the constitutional requirement that he balance its budget annually; costs were outrunning revenues even for current programs; state revenues could simply not support a major new one. A $500,000,000 highway bond issue passed some years before was all exhausted in 1966; if a new one wasn't approved, highways would have to be built out of current revenues—which meant that, in effect, no major new highways would be built. As for local money—New York City money—deficits stared him in the face everywhere: Transit Authority deficits, Long Island Rail Road deficits, Penn Central Railroad deficits, the city itself so broke that it had to borrow money each year just to pay current bills—everywhere, that is, but in the accounts of the two giant public authorities, Port and Triborough. Port, armored by the fact that he had to win approval from the New Jersey Governor and Legislature for anything he wanted that agency to do, was, for the immediate future at least, beyond his reach. And that left just one place to turn.

The Triborough Bridge and Tunnel Authority had $110,000,000 in cash and securities on hand—a surplus that was growing at the rate of almost $30,000,000 a year. A surplus that would grow much faster if Triborough's tolls were raised—and Rockefeller was already secretly considering raising the tolls. A capitalizable surplus—worth, over the next five years, even if current tolls were not raised perhaps half a billion dollars. He needed that money. He wanted it. And Moses, adamant that he and he alone would decide how it was to be used, stood in his way.

And more important than money was personality. There were Ronan's and Moses', of course—the personality of the cool, cautious, bankerly corporation man versus that of the bold, slashing, imaginative creator; an exceptionally perceptive politician and reader of men who had plenty of time to read those two (and who was to have a ringside seat during the ensuing struggle), Assembly Speaker Perry Duryea, says, "They were too antagonistic to work together in *any* setup." And there were Rockefeller's and Moses'. When Moses was in a picture, he dominated it; any transportation improvement in which he played any sort of a key role would, in the public's eye, be *his* improvement, not the Governor's.

"So," as Duryea says, "Rocky wasn't satisfied with what happened in '62. He really had to knock him out of the box."

And Moses had so little left to fight back with.

Once he had had so much. With income from the State Power, Jones Beach and Bethpage authorities as well as from a State Park

Commission and Parks Council as well as the City Park Department, Triborough's annual surplus had been only one piece of a very large pie. More important than the size of the pie had been the fact that it was divided into so many pieces. More important than the amount of money at his command was the fact that this money came from so many different and varied sources, that he had held simultaneously twelve different government jobs—some state and some city. A Governor contemplating removing him from those under his control would have to reckon with the fact that, because Moses' authority chairmanships had staggered six-year terms, he could do even that only over a period of years. And he had to reckon with the fact that, not only during those years but thereafter, Moses would still be holding many powerful city posts, that "you'd have to fight him on so many different fronts." Moses had been able to prop up each post with others, to use each as leverage to make the others more powerful than they would otherwise have been. The position in which he had once stood had been all but unassailable. But he had, by resigning in anger from his state posts, knocked out many of the props himself. Now all the props were gone. His single remaining post stood alone. And he now had only $30,000,000 a year left to fight with—a significant sum but not when measured against the resources of the state that were the resources at his foe's command, and a sum even less significant because it was derived from only one post, his last post, so that men who choose up sides on the basis of money could see clearly that if he lost that post, he would have nothing left to give them—a factor which made them reluctant to take his side. If Robert Moses had still possessed twelve jobs—if "Triborough" had still consisted of twelve arms—Nelson Rockefeller might have found, as Harriman and Dewey and Roosevelt had found, that it was unfeasible to cut off one of them. But now "Triborough" consisted only of Triborough. A Governor could lop off that arm with the assurance that if he did so, Moses would have none left at all.

Moses' lone position might still have been secure, for it rested on the solid rock of the Triborough bond covenants, the contracts sacred under law. Not even a Governor, backed by the Legislature and armed with the full authority of the state, could break those covenants, for if he tried, bondholders could sue, and the courts would surely uphold them.

Except for one consideration. While in theory even a single injured bondholder could sue, in practice no individual bondholder would. In the first place, the legal costs of so complicated a suit would, even in the preliminary steps, be enormous—far beyond any injury the bondholder might have suffered or any damages he could realistically claim. More important, a bondholder contemplating an individual suit would be faced with a legal reality: suing as an individual would be viewed by a court as an admission that only he was hurt—why weren't other bondholders suing?—so that the bondholders, or a substantial number of them, would have to sue as a group. To cover such a possibility, an agent had been appointed, in the contracts, to protect the bondholders' rights—to, if necessary, sue on their behalf. The contracts had appointed a bondholders' trustee.

And the trustee was the Chase Manhattan Bank, and the Chase Manhattan was the only large bank in the United States still controlled by a single family.

The Governor's.

"After the 1966 Legislature had wound up its business without passing our bill and had gone home, we began to get straws in the wind that the Governor and Ronan had plans of their own for taking over transportation," Arthur Palmer says. Lindsay was in no position to object, desperate as he was for a way out of the continual financial crisis posed by the subways (and for a way to avoid a second fare increase—Lindsay had already raised it from fifteen to twenty cents—before he had to run for re-election in 1969). Moreover, neither the Mayor nor his aides seem to have grasped the extent of the power Ronan was negotiating away from the city. By January 4, 1967, Rockefeller was confident enough of city cooperation to ask Legislature and voters to approve a $2,000,000,000 bond issue for highways, mass transit facilities and airports throughout the state and to begin planning a "coordinated," "balanced," "regional approach"—with far greater emphasis than ever before on mass transit—to transportation in the metropolitan region, merging and incorporating in Ronan's Metropolitan Commuter Transportation Authority all the region's public transportation agencies: the New York City Transit Authority, the Manhattan and Bronx Surface Transit Operating Authority (MABSTOA), the Long Island, Penn Central and New Haven railroads, the Staten Island Rapid Transit Service—and the Triborough Bridge and Tunnel Authority.

Rockefeller had a lot riding on approval—not only the plan itself, which had fully captured his imagination, but a consideration considerably more mundane; driven to the wall by the state's worsening financial crisis, the Governor had, through various budgetary devices, discharged his legal obligation to balance the budget by including in anticipated "revenues" a substantial amount—according to some sources $49,000,000, according to others $51,000,000, according to still others $80,000,000—in money from the bond issue for which he was still asking approval. If it were not approved, the resultant deficit would prove highly embarrassing. The Governor was, moreover, planning to use bond issue monies to help in future budgets. If it were not approved, the state would be in for a truly hair-raising tax increase, one that would reinforce his image as a wildly spending liberal among the Republican conservatives across the country whose support he needed for his planned 1968 presidential bid.

The emphasis on mass transit insured media support for the plan in the metropolitan area, and, with leading politicians, Democratic and Republican, endorsing it, legislative approval was assured. Approval in the November referendum, however, was more doubtful. Widespread voter resentment against higher taxes had in recent years caused the rejection of many bond issues; the Governor was worried about the so-called silent vote. Resentment on the part of upstate conservative voters against the Governor's free-spending, high-taxing policies was flooding toward a crest that would spill over in the conservative legislative revolt two years later. In an off-year election, with most voters apathetic and the turnout small, passage of controversial bond issues is traditionally difficult when the only voters who turn out in force are those opposed to specific transportation projects. Results of Rockefeller-commissioned polls were highly discouraging. With the issue in the balance, Rockefeller was afraid that Moses would tip it against him.

The powerful construction labor unions were still solidly behind Moses, for Van Arsdale and Brennan knew that vast allocations were of little use in creating jobs unless the crushing of local opposition and the planning and blueprinting that had to take place before men could actually be put to work was ramrodded through, and their meetings with Ronan had convinced them that he was not a ramrod—if indeed he was even competent, which the two union leaders doubted. "You need a man who knows how to put a show on the road," Brennan was to say. "We had to keep Moses in there." More important, Moses still possessed his name—which, while a symbol around Washington Square of all that was hated, was a symbol of something quite different in Queens and Staten Island. Moses would continue to have the voters' ears, the Governor knew, because he still had the *News* and *Newsday*, the papers with the largest circulation in New York City and on Long Island; in its editorial on the Governor's proposal, for example, the latter had said: "Essential is the participation of Bob Moses in the new agency. His experience will be invaluable." Most important of all, Moses still possessed, unimpaired by his seventy-eight years, the instrument that had gotten him power in the first place: his powerful, supple intelligence. Alone now, Robert Moses began doing what he had done when he had been trying to find a way out of the West Side Improvement financial impasse, when he had conceived the possibilities of the public authority—at so many crises during his career; jotting down figures on a yellow legal note pad.

Ronan's public relations men had been feeding the press figures showing that the unification would end the city's traditional subway deficit crisis. Several years later, Duryea, no friend of Ronan's, could still recall them with a wry grin: "The surplus from Triborough would be $30 [million] a year, the surplus from MABSTOA would be about $5 [million], the Long Island [Rail Road] would either break even or have a surplus of about $1 [million], and these surpluses would be just enough to make up the Transit Authority deficit."

But Moses found that the merger wouldn't come close to making up the transit deficit. Calculating the present and future cost of union contracts then being negotiated and union contracts that would have to be negotiated within the next year or two, increasing maintenance costs and future debt service, he concluded that MABSTOA and LIRR would have not small surpluses but tremendous deficits, and that the Transit Authority's deficit was growing so fast that no conceivable combination of contributions from other agencies could make it up. The primary rationale that the Governor was using to sell the plan to the conservative upstate voters—that it would free the state once and for all from the annual worries about New York's subway problem—wasn't true at all.

And that was only one small point proved by Moses' figures.

Since he had become Governor, Rockefeller had created several giant "public authorities" that were bastards of the genre because their revenue bonds would be paid off not out of their own revenues but out of the general revenues of the state.

No one outside the Governor's confidential staff had ever figured out what the total debt service of all these bond issues was going to be when they were all sold and paying interest simultaneously. Only one other state official, the quietly independent Democratic Comptroller, Arthur Levitt, was interested in doing so—teams of his auditors had just begun calculating that very point.

Moses did it alone. He would never discuss what he found. But Duryea—his last friend in power and the one he took most fully into his confidence at this stage in his career—did, in an interview in 1969: "Three years ago, the state had budgeted for debt service 25–30 million. Last year, it was 40 million and this year 47. Well, Moses had a projection that if all the authorities Rocky was proposing went through, the debt service in 1972—this was the year of total sale—would be 500 million." Rockefeller's proposals would load down present and future taxpayers of the state with a staggering debt. In addition, Moses had done the simple multiplication necessary to figure out something all the reporters and editorial writers who had written about the $2,500,000,000 Metropolitan Transportation Authority bond issue had apparently never bothered to figure out—at least not one of them had mentioned the point: how much that bond issue was going

to cost the taxpayers in interest. The answer was more than $1,000,000,000. A billion dollars in interest! By the time Moses finished figuring, Duryea says, "he had some numbers that were devastating."

The implications were enormous. "If he had ever gone screaming to the public . . .," Duryea says. Moses not only possessed devastating numbers; he could devastate with them. While other opponents of the bond issue had no money to put their case before the public, Moses, with the resources of Triborough still behind him, did, and his prestige alone guaranteed him a full hearing in the media; let him take those numbers to the public with his vast and efficient public relations apparatus, and he could well wreck Rockefeller's grand conception.

And he was prepared to do so. "Only two or three of us knew of these figures," Duryea says. "But we knew that Moses was ready to blow the Governor's transportation" referendum with them. "They had to get him on board so that he wouldn't scream and holler."

Before delivering his "State of the State" message, the Governor and Ronan had had at least one conference with Moses at which they attempted to enlist his support. They failed; he flew off to a vacation in the Bahamas still an opponent. While he was there, Ronan drafted, and airmailed to the old warrior honing his rapier down there in the warm sun, some modifications designed to mollify. They did not; during the three weeks he stayed away following the Governor's speech, reporters checked with Triborough daily to try to talk to him, and as soon as he returned, he had a statement for them. He was too smart to play his trump on the first hand; it was not empty victory but power in the new transportation setup that he wanted. He did not reveal his figures. But he gave the Governor an inkling of the intensity of the opposition he was prepared to provide. It was uncompromising. The merger proposal was "absurd," he said. "Grotesque. It just won't work. . . . They don't know what they are driving at." And the opposition made major stories in every metropolitan area newspaper. On March 9, 1967, Moses met with Rockefeller in Rockefeller's Fifty-fifth Street townhouse And two days later he announced that the Governor's plan—the "absurd," "grotesque" plan—was "indispensable" and that he was supporting it. "We believe the Governor is on the right track, that only a bold approach can succeed, and for our part shall cooperate to this end." (Said Ronan: "This is welcome news.")

The reason Moses gave for his 180-degree change of heart was that "after considerable discussion, the Governor included in his proposal a paragraph on protecting the rights of Triborough bondholders." Actually, however, nothing new of any major significance to the bondholders had been added to the proposal. Levitt and Duryea knew the real reason: the Governor had bought Moses' support with the only coin in which Moses was interested—power, a promise that he would have it under the revised transportation setup. "I know for a fact that Rockefeller felt he had bought Moses' support," Duryea says. "How [do I know]? I know because one Monday in Albany—it was at one of those Monday-morning so-called leadership conferences—Rockefeller announced that Moses would support his transportation unification program. I said, 'What'd you give him?' And Rockefeller said, 'A promise that he wouldn't be thrown in the ashcan,' that he would be given something substantial in the MTA reorganization." Levitt had even more conclusive proof.

To gain maximum impact for his "figures," Moses knew they should be released by someone other than himself, someone who could not be accused of having a personal stake in the defeat of the transportation proposal. On March 8, the day before his conference with the Governor, he had telephoned Levitt, who recalls: "He called me up and said, 'I want to see you. I have figures . . . and I want you to use them and blast Rockefeller.' The very next day, I had to go to Fifty-fifth Street for a meeting of the state pension fund. I didn't know what room to go in, and I was wandering around from room to room, trying doors, and I opened one, and there, to my surprise, was Moses and his whole coterie. I said 'What are you doing here?' He said, 'Oh, waiting to see the Governor.' I said, 'Where are those figures?' He said, 'Oh, I'll send them to you,' in a hedging tone of voice. And the next day he comes out for MTA. I never got the figures."

Van Arsdale and Brennan knew the reason, too. Rockefeller had also told it to them. The day after Moses' announcement of support, Brennan—previously conspicuously silent on the Governor's proposal—chimed in with his. The *Times* story announcing the arrival on board of the powerful unionist contained a sentence whose sources was apparently Brennan himself: "It was learned . . . that Governor Rockefeller had offered Robert Moses a seat [on the MTA board] . . . as well as continued direction" of Triborough. Brennan himself confirms that Rockefeller had given "Van and I" that impression: "The Governor said he would have an important part [for Moses]." Not satisfied with that vague statement, the two unionists asked Rockefeller precisely what that meant. He told them he had given Moses what Moses wanted: "He told us Moses wanted a part of the construction." "Will he have a part?" Brennan asked. "And the Governor said, 'Oh, absolutely. We know his talents, his ability, and we want to use them.'" Rockefeller was careful to leave the same impression with the public. The Governor told reporters that each of the authorities, while being merged, would "retain [its] identity and be under the administrative direction of an executive head in charge of operation," who, the *Times* reported, "would possibly have the title of president of the agency." *President of Triborough*—that sounded even better than "Chairman."

Moses appears to have had no doubt that the Governor would keep his promise. His statement announcing his support of the referendum had stated: "If the verdict is favorable, all the talent and goodwill available must be recruited to realize the exceedingly complex, long-term improvements." He had no doubt that that talent would, in the fields of highways and bridges, continue to be his own. And with the assurance in hand, he proceeded during the seven months prior to the referendum to prove that he would violate any principle—even that most sacred one to which he had always sworn allegiance, the sacredness of the bondholders' convenants—to keep power.

He outdid himself in support of the referendum; when Rockefeller didn't contact him, he called the Governor's office to ask for an appointment so that he could learn how he could best be of assistance in persuading voters, and following that meeting, he lied for the referendum (although he knew that bond revenues were slated for approach roads to his proposed Long Island Sound Crossing, he told the press: "Statements . . . that the pending transportation proposition is to be tapped to pay in whole or in part for the Long Island Sound Crossing . . . are wholly irresponsible and malicious. Not a cent of state subvention, aid or credit is required. . . ."); poured money behind it, using Triborough funds to pay for a full-scale advertising campaign ("Traffic—Commuter—Transit Delays Get Your Goat? Don't Sit And Grumble. Get Out And VOTE!"), plastering Triborough's toll booths with huge "VOTE YES!" signs—and repeatedly flattered the Governor so enthusiastically and obsequiously ("Governor Rockefeller has . . . guts"; "It takes a lot of courage and faith to ask the voters to approve a $2.5 billion . . .") that at times he seemed to be almost desperately trying to reassure Rockefeller that the Governor wouldn't have to worry about his loyalty after the reorganization, that he could be a loyal member of his team.

After an almost equally frantic statewide campaign by Rockefeller, the referendum passed, but there remained another, equally important reason to keep Moses on board. There was still the possibility of a legal fight over whether the Triborough bond covenants would be violated by the merger of the Authority into a larger authority—a question which, it seemed likely, could, if pressed, be resolved only one way: in the bondholders' favor.

Any party to a contract can bring suit if he feels it has been violated. There were two parties to the contracts that were the Triborough bonds—the Authority and the bondholders, represented by the trustee Chase Manhattan Bank.

Prior to his March 9 meeting with Rockefeller, Moses had prepared to have the Authority bring suit; he had instructed Sam Rosenman to gear up for a full-scale, no-holds-barred legal battle. But after his March 9 meeting with Rockefeller, he had Rosenman stand down, at least in part; the attorney, on behalf of Triborough, joined Dewey, representing Chase Manhattan, in attacking the proposal to use the Authority's surpluses, but let the former Governor carry the load, following through only pro forma, and he dropped opposition to the merger, the part that would have deprived Moses of power—because. of course, Moses believed Rockefeller had promised him power after the merger as well. "I understand that he had a promise that he would be part of the MTA board," Dewey was to recall. "I don't think Rosenman would have been so cooperative with the MTA if Moses hadn't thought that he'd have a place."

Of the circumstances surrounding the final removal of Robert Moses from power, the key one—the resolution of the suit against the merger that, if successful, could have kept him in power—remains shrouded in mystery.

Two things are clear. One: that, in the opinion of almost every legal expert on municipal and public authority bonds, if the suit had been prosecuted vigorously, it would have been successful—the merger would have been voided. Until all its $367,200,000 bonds had been redeemed, the Triborough Bridge and Tunnel Authority would have remained an independent, autonomous agency, and if the Authority chose not to redeem its bonds, it would have remained independent and autonomous indefinitely Two: that the suit was not prosecuted vigorously. Why the suit was not prosecuted vigorously is not known.

Chase Manhattan had certainly given the impression that it intended to press the suit to the limit when it was filed in June 1967. The retaining of Dewey as counsel seemed proof enough of that, and the bank's initial sixteen-page, thirty-six-count complaint instituting the action seemed determined. Transfer of the Authority's surpluses or income to the Metropolitan Transportation Authority would, the bank's complaint stated, cause the bondholders the bank represented "irreparable injury, for which they have no remedy at law." Both state statute—the New York public authorities law—and the Authority's contract with its bondholders forbade such a financial merger until all bonds were paid off and the contract thus voided, the complaint stated.

An administrative merger was similarly illegal, the brief stated, forbidden by Federal and State Constitutions and state law as well as bond convenants, and was injurious to bondholders because the aims and interests of the TBTA and those of the MTA contained a basic, irreconcilable conflict: "Triborough must facilitate the use of its proj-

ects by motor vehicles whereas the MTA and the TA must facilitate the use of their respective train and subway service systems, thereby diverting traffic from Triborough bridge and tunnel projects."

Following passage of the referendum, the suit was resumed, but all through December and January, intensive negotiations were being carried out between representatives of Governor Nelson Rockefeller and those of his brother David, Chase Manhattan's president and absolute boss. And the suit was finally settled not in court, open or closed, but in the Governor's Fifty-fifth Street townhouse, shortly after 9 a.m., February 9, 1968, at a fifty-minute meeting attended by the two brothers, each attended by one aide, Dewey for David and Ronan for Nelson. At this meeting a three-page stipulation previously drawn up by attorneys for both sides was signed by Nelson Rockefeller on behalf of the State of New York and David Rockefeller on behalf of the Chase Manhattan Bank. Following the meeting, the stipulation was taken to the chambers of the judge who would have been sitting on the case had there been a case—State Supreme Court Justice William C. Hecht, Jr.—and sealed, not to be seen by any outsider or newspaperman. Under the stipulation, the Governor's family's bank dropped all opposition to the Governor's transportation merger, the merger under which the Triborough board—Robert Moses, chairman—was supplanted by the MTA board—Dr. William J. Ronan, chairman. The point that Moses had always believed would keep him in power, therefore, was not contested—even by Moses. On his instructions, Rosenman agreed on behalf of Triborough that the merger was constitutional and legal. The crucial point was not contested by anyone.

What Chase got in exchange is not known, although it continued to head syndicates—as it had in the past—that underwrote and purchased tens of millions of dollars in state bonds, immensely profitable to banks.

Even such a bonus would probably not have persuaded the normal bank—run by a board of directors responsible to a multitude of stockholders—to abrogate its legal obligations, thereby leaving itself open to stockholder action. A bank controlled by a single family could do so. however. In the entire United States, only one bank large enough to be a trustee for $367,200,000 in bonds is still family controlled. What was necessary to remove Moses from power was a unique, singular concatenation of circumstances; that the Governor of New York be the one man uniquely beyond the reach of normal political influences, and that the trustee for Triborough's bonds be a bank run by the Governor's brother.

Why did Moses choose to rest his future on Rockefeller's words? At least part of the answer is probably understood by the perceptive Duryea, who says he had little choice but to do so. "He didn't have much left to fight with any more," the Speaker says. And probably another part is provided by Shapiro, who, asked why his boss had not exacted a promise in writing, says: "I suppose because he couldn't really believe that they wouldn't want him in the picture at all. I mean, they wanted the bridge [Sound Crossing] built, didn't they? They wanted the program pushed, didn't they? And he was the only one who could push it like it should be pushed. He just couldn't understand that they might not feel like that, I suppose. I mean, it had always been like that before . . ."

Rockefeller's promise to Moses had served its purpose well. It had kept Moses quiet for almost a year, persuaded him not to oppose Rockefeller's transportation merger or the referendum which had funded it. The Governor's promise had, moreover, persuaded Moses to withdraw the lawsuit which might have invalidated Rockefeller's transportation merger. It had enable Rockefeller to use his name.

And now, having used his name, having gotten everything out of him that he could, the Governor threw him away.

* * * * *

Up until the very day on which the crucial stipulation was signed and sealed, all was honey between the Governor and the old man, now seventy-nine. On February 9, the day it was signed, Moses still believed he had a firm promise that he would have a substantial role in the new setup, possibly as president or executive head of Triborough, certainly as a member of the MTA board. Then, with less than three weeks before the merger was to take effect, the mask dropped away.

Immediately following the stipulation signing, Moses telephoned the Governor for an appointment. He got one—and when they met, Rockefeller apparently repeated his promise. Moses says that the Governor "told me I would be appointed to the MTA and would have the title of president or something of the sort at the head of Triborough under the general supervision of the MTA." But, Moses says, "Dr. Ronan did not like this." Perry Duryea says that "Moses asked me—really to intercede—with the Governor and Ronan to attempt to guarantee that he would get a meaningful position. He didn't ask me himself; he had someone else [Shapiro says it was he] ask me if we could get together and I went to his apartment in New York. He had met with Ronan and Rockefeller the week before and he left that meeting with a very bad taste in his mouth. He felt the Governor hadn't given him the time he deserved. The Governor was in and out of the room, the conference was interrupted. It was left that Ronan would call him in a week. And he hadn't heard from Ronan. And the deadline . . ." The deadline—the date for the merger—was midnight, February 29. At 12:01 a.m., March 1, the Triborough board would go out of existence. He would be out of a job— out of power completely.

Duryea felt sorry for Moses. "It was his dream to be part of the new transportation setup," the Speaker says. "He still felt the drive and the involvement, the old fire horse when the bell clangs. Here was this great new thing going forward—he wanted to be part of it." Duryea agreed to intercede on the old man's behalf, and thereafter, no more than a day or two at most before the merger took effect, Ronan contacted Moses.

He offered Moses a post as "consultant" to the Triborough Bridge and Tunnel Authority. The post, he said, carried with it a salary of $25,000 a year and continued use of his limousine, his chauffeurs and his secretaries. Moses would be in charge of "coordinating" Triborough's present construction program, and his "primary responsibility" would be the Long Island Sound Crossing.

Whether Moses could bring himself to question Ronan further about the "details" of this offer himself, or whether he had an intermediary do it, is not known, but with each answer he received, his humiliation must have deepened. For there were no further "details." That offer was all there was. He had thought he had been promised a seat on the MTA board; there was no mention of such a seat now; during the next day or two, in fact, Ronan announced the names of the nine members of the board of the agency that would be responsible for all intrastate public transportation in the New York metropolitan region—the name of Robert Moses was not among them. Moses had thought he had had a promise of Triborough's "presidency," or at least its chief executive officer, whatever the precise title might be; Ronan did not make any mention of such a promise now; in fact, when Moses or his intermediary asked Ronan directly about it, Ronan replied that there *would* be a chief executive officer—but it would be Joseph F. Vermaelen, Moses' chief engineer. Vermaelen, and Lebwohl, and the rest of Moses' team, would report directly to the MTA staff.

Analyzing the offer only deepened the humiliation. "Coordinating" Triborough's current construction program was a meaningless phrase: that program consisted only of a relatively minor reconstruction of the Cross Bay Bridge and the adding of a second deck on the Verrazano—and those projects were already under way. The Sound Crossing would be a great project, but no one knew when it would start—and it would probably not start soon. And that was only one project—one for a man accustomed to directing dozens. "Don't take all Bob's toys away," Moses' wife had begged the Governor. Well, the Governor hadn't. He had left him one—or, to be more precise, the promise of one. When the implications of what Ronan was saying sank in, Moses realized that he was being allowed, almost as a gesture of charity, to keep the perquisites of office—the car, the chauffeurs, the secretaries—but not so much as a shred of power. He could if he wished stay on at the Authority he had created and made strong and great, but not only would be no longer be in charge of it, he would no longer have any say in its affairs. Even the men around him, his muchachos, the men who had looked to him for leadership for so many years, would now be reporting to someone else.

The offer was a slap in the face. But there was no other offer. The fatal deadline of March 1 was upon him; he had no choice but to accept it; on the very last day before the merger was to take effect, he did so. His statement to the press, issued the following day, the day the Triborough Bridge and Tunnel Authority, the last remaining arm of once twelve-armed "Triborough," became a unit of the Metropolitan Transportation Authority, was one sentence long:

"The Metropolitan Transportation Authority has offered me an advisory post in the meropolitan transportation enterprise, and I have accepted."

More poignant than his statement on the day of the merger was his attitude.

Ronan had scheduled for that day a ceremonial tour of some of the Transit Authority and Triborough facilities by the members of the MTA board. Believing he would be one of them, Moses had invited Ronan and the board to lunch with him at Randall's Island, and Ronan had accepted. Now, though he sat at the head of the big table in the big dining room as he had sat there at a thousand lunches during the thirty-four years he had been head of Triborough, he had to know that he was sitting there only by sufferance, that he, who so loved to be the gracious host, was in reality not the host of that luncheon at all, that he was only a guest himself. The very cost of the lunch would have to be approved by someone else—by this college professor whom he had once derided as "sophomoric" but who had, he felt, weaseled his way into power, not by accomplishment, not by achievement, not by the honorable means by which he felt he had attained power, but by, he felt, "——— kissing" his way around Nelson Rockefeller.

Worse—much worse for him who had always delighted, gloried, in giving free rein to his feelings—he could not let his feelings show. If he were ever to have any power at all again—if he were ever to actually get to build even the Sound Crossing they had held out to him as a pittance—he would have to get on the good side of this man who had stripped him of power. Ronan, he felt—at least his aides say so—had defeated him not in a fair fight but by lying to him and betraying him. But he would have to make friends with Ronan. Reporter Richard Witkin, who covered the changeover for the

Times, noted that: "Mr. Moses . . . seemed to go out of his way yesterday to take a back seat to Dr. Ronan. . . ."

The *Newsday* story, which noted that "Moses, who once held fourteen [sic] public positions simultaneously, appeared to defer yesterday to Dr. William J. Ronan," noted also that the Authority adopted a new emblem, a two-tone blue "M" that would appear shortly on all its trains and other facilities, and said, "During the last four decades the same capital letter might have been used as a symbol of domination of the area's planning scene." But it couldn't any longer. The age of Moses was over. Begun on April 23, 1924, it had ended on March 1, 1968. After forty-four years of power, the power was gone at last.

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(Certain crucial details of this chapter were supplied to the author by banking sources who would, out of fear of Gov. Rockefeller, agree to talk only on guarantees of anonymity.)

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PRESIDENTIAL CAMPAIGN ACTIVITIES OF 1972, WATERGATE AND RELATED ACTIVITIES, PHASE I: WATERGATE INVESTIGATION

(Hearings before the Select Committee on Presidential Campaign Activities of the U.S. Senate, 93d Congress)

TESTIMONY OF JOHN DEAN, MONDAY, JUNE 25, 1974

I had received word before I arrived at my office that the President wanted to see me. He asked me if I had talked to the Attorney General regarding Senator Baker.

I told him that the Attorney General was seeking to meet with both Senator Ervin and Senator Baker, but that a meeting date had not yet been firmed up. I told him that I knew it was the Attorney General's wish to turn over the FBI investigation and the President said that he did not think we should, but asked me what I thought of the idea. I told him that I did not think that there was much damaging information in the FBI investigation, although there could be some bad public relations from it. He told me to think about this matter. He also said that he had read in the morning paper about the Vesco case and asked me what part, if any, his brother Ed had had in the matter. I told him what I knew of his brother's involvement, which was that he was an innocent agent in the contribution transaction.

We then discussed the leak to Time magazine of the fact that the White House had placed wiretaps on newsmen and White House staff people. The President asked me if I knew how this had leaked. I told him that I did not; that I knew several people were aware of it, but I did not know any who had leaked it. He asked me who knew about it. I told him that Mr. Sullivan had told me that he thought that Director Hoover had told somebody about it shortly after it happened because Hoover was against it and that Sullivan said that he had heard that this information had gone to Governor Rockefeller and in turn had come back from Governor Rockefeller to Dr. Kissinger. We then talked about the executive privilege statement and the President expressed his desire to get the statement out well in advance of the Watergate hearings so that it did not appear to be in response to the Watergate hearings. We also discussed Mr. Mollenhoff's interest in the Fitzgerald case, and he asked me to look into the matter for Mr. Mollenhoff.

Before departing his office, he again raised the matter that I should report directly to him and not through Haldeman and Ehrlichman. I told him that I thought he should know that I was also involved in the post-June 17 activities regarding Watergate. I briefly described to him why I thought I had legal problems, in that I had been a conduit for many of the decisions that were made and, therefore, could be involved in an obstruction of justice. He would not accept my analysis and did not want me to get into it in any detail other than what I had just related. He reassured me not to worry, that I had no legal problems. I raised this on another occasion with the President, when Dick Moore was present.

DOMESTIC SUMMIT CONFERENCE

Mr. HUDDLESTON. Mr. President, tomorrow the domestic summit conference on the economy will open at the Washington Hilton Hotel. This 2-day meeting will mark the culmination of a month-long, coordinated debate on our economic problems. It will not, however, mark the end of those problems.

Instead, if we are to move toward the elimination of those problems, it must serve as a beginning—as a time to bring together the various sectors of our economy and to initiate the development of a comprehensive policy which acknowledges and addresses itself to the myriad and complex issues confronting us.

When four of my colleagues and I joined last July in introducing a resolution calling for a domestic summit on the economy, we had little cause to believe that it would ever come to fruition in the scope that it has. We did, however, believe that the calling of such a meeting was essential—that the nature and extent of our economic difficulties demanded a meeting of summit proportions—a meeting at the highest levels of Government. And, we believed such a meeting, to accomplish its objectives, would require the approaches and skills of diplomacy—that negotiation, compromise and some ultimate commitment to an agreement would be necessary.

Those basic beliefs are as relevant today as they were then.

The U.S. economy is suffering from that now familiar malady, "stagflation." The cost of living soared ahead by 1.3 percent in August or at an annual rate of 15.6 percent. Most predictions are that inflation will remain in the double-digit figures for the rest of this year. Yet, the stagnation of the economy appears to be persistent and many fear there will be little real economic growth for the rest of this year or perhaps into 1975. Furthermore, the unemployment rate rose to 5.4 percent in August.

The sickness is a somewhat new one, and the cures not fully understood. The traditional prescriptions for inflation tend to contribute to stagnation; and the proven medicine for stagnation tends to exacerbate inflation.

It has been suggested that we need a new Keynes, and that is undoubtedly true. But, such insightful diagnosis and prescriptions for the economy, as produced by a Keynes, are historically few and far between, and it does not now appear that a physician with a healing and painless potion is on the scene.

In fact, it appears likely that we shall have, for the moment, to seek simply to arrest the disease—to experiment with various solutions and to hope for the current combination.

In our search for that elusive but vital combination, there are recognized but difficult-to-avoid pitfalls which could wreck the hope and opportunity which a summit offers. And, on this, the eve of the convening of the summit, it is, I believe, incumbent upon those who participate and those who listen to reexamine their own views and their own positions, mindful of at least three pitfalls which we can avoid and determined that we will avoid them.

The initial impetus for the summit conference was undoubtedly the inflationary trends which both chased the cost of products upward and imposed an added tax on the income of every American. But, a funny thing happened on

the way to the conference table. To a great extent, the paramount concern became that of fighting a recession. In some ways, that is understandable. The economic indicators of the past few weeks evidence a deterioration in the economy and unemployment moves upward. But, just as these indicators are real, so is inflation. It has not disappeared, and recent increases in the wholesale price index, as well as recent wage increases, suggest that it is not likely to do so.

So distinguished an economist as John Kenneth Galbraith has warned us against this pitfall. And, as an article in the Monday Wall Street Journal noted:

It's not hard to understand why the summit focus is shifting from inflation to recession. For one thing, the economy has shown signs of weakness in the past month or so, suggesting that recession may rival inflation as an economic problem in 1975. But perhaps more basic is Professor Galbraith's point: Fighting recession is more familiar—and more fun—than fighting inflation.

Certainly, no one should overlook the signs of downturn. That would be to overlook problems of far-reaching dimensions which impact hardest on the less fortunate in our society. But, at the same time, neither should we overlook the ubiquitous inflation monster which stalks each of us in each of our shopping trips and which imposes an additional burden upon those already suffering as a result of the other weaknesses in the economy.

Second, when the five original cosponsors of the summit conference resolution introduced our legislation, we all stated our belief that there would have to be compromise, negotiations and even sacrifice, if we were to come to grips with the economic problems facing our Nation. Again, nothing has changed that belief. But, again a funny thing happened on the way to the summit table. During a whole series of presummit conferences, sector after sector of the American economy indicated not what it was willing to do to pull us out of the current economic morass, but presented shopping list after shopping list to the Government.

It is, of course, true that Christmas is not that far away, but the spirit was not always the right one for the season and there was a great deal more concern over receiving than giving. Thus, if all advice is taken, the Federal Santa will be too busy serving special interests to take care of the overall needs of the American people. Perhaps the attitude of "me first" has been fostered too much in this Nation and perhaps the idea of belt-tightening does not have very much appeal. But, there are few observers who believe we can overcome our current economic difficulties without making some hard decisions relative to priorities, income distribution and allotment of scarce resources, whether the latter be capital or material.

Finally, several recent surveys suggest that the American people are less than impressed with the pre-summits and the upcoming conference. Thus, again a funny thing happened on the way to the conference table. A move to restore the confidence of the American consumer has apparently gone amiss, and that bodes ill. No effort can be successful without the backing, support and cooperation of the American people. It is certainly true that the Federal Government needs to demonstrate a greater willingness to make and execute the resolute policy needed to come to meet our problems. But, the American people must also demonstrate not only that they will cooperate, but also that they will demand of their elected representatives that there be moves in the right direction.

Time is running out. But, the final second is not yet here, and there is still time for those participating in the conference to put aside narrow self-interest, to seek to address the broad scope of current economic problems and to demonstrate to the American people that all sectors are ready and willing to move forward together.

Without that, we will be left with a collection of information which may be valuable, but we will have lost a more valuable opportunity to define, explain, discuss and negotiate a treaty among the American people—a treaty among Government, business, labor and consumers, containing terms necessary to thwart the frictions which can tear us apart over the food we eat, the clothes we wear, the houses we live in, the heat against the winter cold, and a host of lesser things, and a commitment to abide by those terms.

As a nation which remains the last best hope for a way of life and a system of government, we bear a grave responsibility—and we face a challenge which must be met. Failure to do so may hold consequences far beyond our personal comforts and desires, and far beyond the borders of this Nation.

U.S. FOREIGN POLICY

Mr. MUSKIE. Mr. President, last week, our colleague from Texas (Mr. BENTSEN) addressed a meeting of the Foreign Policy Association of New York. In his remarks, entitled "American Foreign Policy: The Future Price of Neglect," Senator BENTSEN discussed the price this country is paying—and will continue to pay—for neglecting several aspects of our foreign relations. Specifically, he perceptively analyzes how the present administration, despite certain diplomatic achievements of the last 5½ years, has badly neglected our European and Japanese allies, our Latin American and Canadian neighbors, a broad range of international economic issues, and our historical role of moral leadership.

Mr. President, I urge all Senators to read this thoughtful address, and I ask unanimous consent that it be printed in the RECORD.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

AMERICAN FOREIGN POLICY: THE FUTURE PRICE OF NEGLECT

It is a privilege to meet with you today to discuss our mutual concern with American foreign policy.

When I accepted your invitation to speak—a political eon ago—I chose to title my remarks: "The Future Price of Neglect."

Now we have a new Administration, opening up new possibilities for foreign policy initiatives. And I want to make a few suggestions as to how this Administration's foreign policy agenda might be re-ordered.

The President said this week that he will ask Members of Congress whether we should change the procedures for reviewing the work of the "40 Committee"—an organization so secret that millions of Americans are only now learning of its existence.

We must make some changes. The revelation, well after the fact, of C.I.A. involvement in the domestic affairs of Chile, points up the urgent need for a new way of doing business.

Perhaps it was, as President Ford said, in our national interest to step in and protect opposition news media and opposition political parties from the Allende regime.

But who made that determination? Who is responsible for deciding what is in our national interest? And to whom are they accountable?

Every two years, across the land, we debate the issues confronting our country. Every two years, the people of the United States elect spokesmen who answer to them, to chart our nation's course, to decide what is in our national interest.

The C.I.A., the 40 Committee and other intelligence organizations are instruments for implementing foreign policy . . . not shaping it. They are responsible for carrying out activities and programs in our national interest; but after elected officials—accountable to the people—determine where our interest lies.

The proper arm of Congress must not be kept in the dark about the covert activities of any agency or bureau of this government. It is important that Congress and the President, working together, devise a workable, effective Congressional review process to help insure that those activities are, indeed, in our national interest, that the C.I.A. implements, but does not make our foreign policy.

When President Ford declared inflation our Public Enemy No. 1, he created the initial impression that his Administration will emphasize domestic policy, which most people agree was neglected by the Nixon Administration in its hot pursuit of foreign policy.

It is almost heretical to suggest that the Nixon Administration neglected foreign policy—the one area of performance in which it is generally given high marks.

But that is a judgment I made some months ago, and a judgment I make today.

I do not intend to castigate a President who is no longer in office to defend himself.

I do not want to detract from his real accomplishments abroad, for which we can be truly grateful.

But I do want us to take a realistic view of where we stand in the world arena—and of the price we are paying, and will continue to pay, for neglect in our foreign policy.

And there has been neglect—dating back to the Nixon Administration and beyond.

There has been neglect of our European friends in the Atlantic Alliance.

There has been neglect of our hemispheric neighbors in Latin America and our friend to the north, Canada.

There has been neglect of our relationship with Japan as a friend, ally, and major trading partner.

There has been neglect of the emerging Third World nations—such as Nigeria and Indonesia—that are destined to play a vital role in world politics.

There has been neglect of a whole broad range of economic issues that are having an increasingly serious impact on international peace and stability.

And there has been neglect of our historical role of moral leadership and spokesman

for humanitarian values in the corners of the world where we have closed our eyes to official oppression.

On the positive side, we have seen the withdrawal of our military presence from Vietnam. We have seen tensions eased with China and the Soviet Union and Eastern Europe. We have seen some impressive personal diplomacy over the past few years, and some heroic peace-keeping efforts in one trouble spot after another.

But we have NOT seen the emergence of a coherent, global foreign policy. Instead we have seen a foreign policy dominated by a triangular relationship with our former adversaries.

An easing of relations with China and Russia is well and good, but the world is a sphere, not a triangle.

A policy based on the concept of three major power bases leaves out too much.

In the process of furthering amicable relationships with China on the one hand and the Soviet Union on the other, we have neglected too many other important facets of our foreign policy—in particular, our traditional allies.

That neglect has been deeply felt.

A measure of the depth of injured pride can be seen in the fact that French President Giscard d'Estaing was quick to observe that President Ford made absolutely no mention of Europe in his address to the joint session of Congress. So President Giscard—and others—have suggested that it is time for Europe to "go it alone."

It is easy to don the armor of isolation as a protection against wounded pride. But isolation is not the answer—for Europe or for us.

It is not only unwise—it is impossible. Our fortunes are so inextricably bound together that we could not sever the bonds if we tried.

In spite of occasional geopolitical differences, we cannot ignore the ancient emotional and cultural ties that bind the Atlantic nations together, any more than we can ignore our political and economic ties.

The European Alliance remains the most basic element of our foreign policy—and the basis for our national security. At the same time, the United States remains the guarantor of European security.

It is in our own best interests to support the Atlantic Alliance as an essential force in maintaining a safe international system. We must also recognize that strains on that Alliance pose threats to the stability of the Western Hemisphere. We cannot afford to permit the Alliance to be weakened.

But it has been weakened—by our preoccupation with Russia and China; by disagreement over trade and monetary issues; and by our serious failure to consult adequately with our long-time European allies on a wide range of pressing issues.

So it is not surprising that Europeans have lost faith in the U.S. commitment to Europe's defense, or that some among them even question the continuing viability of the Atlantic relationship.

The Europeans, who are far more dependent on Arab oil than we are, are vitally concerned with the Middle East. But when war erupted there, our Secretary of State flew directly to Moscow without stopping at even one of the capitals of Western Europe.

It is small wonder that our allies suspect us of empty rhetoric when we call for greater coordination in policy formulation—and then bypass them in vital considerations. Their suspicion is reinforced when we give lip service to European integration, and then react in a hostile manner when Europeans try to speak with one voice.

National interest and the determination of where that national interest lies may not carry the United States and Europe in the same direction at all times—as we saw during the Middle East crisis. But this is all the more reason to maintain a framework for consultation in order to avoid future problems.

We need to strengthen that framework—and we need to make use of it.

We have too much invested in NATO to permit it to come unraveled. But a series of conditions makes this all too possible:

The fear of nuclear holocaust and Soviet aggression has faded to the extent that conscription has been eliminated in most of Western Europe, as it has in the United States.

The energy crisis has hastened a review of European attitudes toward the Arab world.

Economic instability has resulted in pressures for reduced defense budgets.

Given these conditions, it is clear that the parties to NATO will have to exercise great care and restraint to insure the intergity, cohesion, and effectiveness of the Alliance.

Now, turning to Asia, it is reasonable to ask what we have actually gained from our new relationship with China—which still rests on a rather shaky foundation. The old order is passing in Communist China, and we cannot predict now what direction new leadership will take, or how the "cultural revolution" will affect our policy there.

In pursuing that policy—which the Nixon Administration obviously saw as one of the keys to the Vietnam solution—we again neglected our traditional allies.

Japan—our most important Asian ally and trading partner—was not even forewarned of this shift in policy, which could vitally affect its interests. Nor were any of our other friends who had loyally supported our policy of Communist containment through the Cold War Era.

Among those friends, none has given more loyal support than the Latin countries, who for more than two decades followed our lead in isolating Communist China. In spite of growing misgivings, they consistently cast their bloc of 20 votes to exclude Communist China from the United Nations.

Likewise, and with even greater misgivings, they backed our policy of boycotting Cuba and denying it membership in the OAS.

But our sudden reversal of policy in China—without the courtesy of consultation or advice—left the Latin countries out on a limb, and understandably ambivalent about continuing support of our Cuba policy. Now we are seeing an erosion of our position on Cuba—and our leadership in Latin America—as more and more Latin American countries move toward establishing closer ties with Cuba.

This is just one example of the price we pay for a piecemeal and fragmented approach to foreign policy in a dynamic world situation.

Foreign policy cannot be conducted on a one-to-one basis. Nor can it be conducted as an exercise in crisis-hopping.

I don't want to downplay the importance of our initiative toward China, which I heartily approved at the time and continue to approve. I would welcome similar initiatives to other nations from whom we have been estranged—but NOT at the expense of our traditional friends and allies; NOT as unilateral actions, bypassing the alliances to which we are committed. If we continue to ignore them, we may lose more than we gain.

If we learned anything from our experience with Communist China, we learned that 20 years of noncommunication and isolation handicapped us as much as it did the Chinese.

We learned that we cannot afford to live in ignorance of any other nation in this shrinking world.

Last year, I called on the Nixon Administration to normalize relations with Cuba. It now appears that the Ford Administration is moving in that direction. The signals are encouraging, and we can hope for an end to a period of isolation that is inconsistent with our policy toward other Communist regimes and detrimental to our relations with Latin America.

Ironically, our closest neighbors have been the most neglected. In our concentration on Big Power diplomacy, we have overlooked their growing importance in international trade and hemispheric stability. Our own national security is deeply involved with the development of Latin America.

I feel an instinctive reluctance to use the term "national security" because it was so blatantly misused and abused by an Administration that was distinguished by its corruption of the language. But that is past—and it is time to revive the term in its proper meaning and to examine the concept in a broader context.

National security implies not only military strength and an adequate defense budget. It includes the goodwill and trust of our global neighbors. It includes the careful cultivating of attitudes that make military solutions unattractive. It includes economic well-being—for no nation is more insecure than one that is haunted by economic instability.

President Ford is correct in placing inflation at the top of the national agenda and he should place it at the top of his foreign policy agenda as well. No reasonable person can question that inflation is a major threat to any nation's security, including our own.

But in declaring war on inflation, we have to be careful to avoid two great mistakes.

One is the mistake of turning inward—of treating inflation as only a local phenomenon when it is also a global problem, shared by industrialized and emerging nations alike. Indeed, our own rate of inflation is considerably behind that of Japan, Britain, France and Italy. In Italy and Great Britain, national bankruptcy is a real possibility.

The other mistake is to concentrate on inflation to the neglect of a whole range of increasingly complex economic issues that have been neglected too long. These issues, too, are global in scope, and deserve a higher priority on our foreign policy agenda. World-wide food shortages and scarcities of raw materials; the growing threat of trade wars; limitations on access to supplies and access to markets; the stockpiling of petrodollar reserves that jeopardizes the international monetary system—all these are world-wide economic problems that have an impact on our national welfare and must be given consideration in our total national policy.

We must also be aware that inflation and economic instability pose a serious threat to our national defense posture.

Arms control is an important element in maintaining the balance of peace—and I support continued efforts to reduce strategic armaments. But an equally important element is the control of economic problems, at home and abroad.

Right now, cutbacks in NATO commitments appear inevitable, as Europe struggles with unbalanced budgets. The Dutch and the British are considering troop reductions, and Western Europe is naturally apprehensive about troop reductions the United States might make in view of our own economic problems.

Chancellor Helmut Schmidt gave voice to this apprehension when he asked President Ford to advise him of any policy changes that could affect Germany and urged that no remedial measures be taken without consideration of the impact on the European economy.

This is a real and valid concern. The precarious balance of the world economy could easily be upset by unilateral action in any quarter. If we doubt that for a moment, we

have only to recall the shattering effects of the Arab oil embargo and its contribution to double-digit inflation in a growing number of nations.

Governments that fail to cope with problems of runaway inflation and massive unemployment lose popular support, and people may turn to leaders who offer simplistic solutions to complex, interlocking problems. We must not forget the economic unrest and loss of faith in democratic institutions that were the prelude to the rise of Hitler and Mussolini.

So as we hold our summit meetings on the economy, we should be aware that they are not truly a domestic summit, but another aspect of foreign policy—and possibly the most neglected aspect. So neglected, in fact, that the Administration has left the top economic job at the State Department vacant since March.

The Nixon-Kissinger approach never gave sufficient weight to the economic issues that are at the forefront of international politics. That is a dangerously misguided approach to foreign policy.

The tapes of the former President betray his attitude toward the economic problems of our allies. "I don't give a—expletive deleted—about the lira," Mr. Nixon said. But, it's time somebody started giving an "expletive deleted" because, in a real sense, when the lira has problems, the dollar suffers too.

We have a tendency to try to divide that which is indivisible: politics from economics, domestic policy from foreign policy. Unfortunately, it is not that simple.

I am concerned that inflation and fear of inflation at home may prompt a dangerous drift into isolationism. There is a widespread feeling that we should concentrate on our own problems for a change and let the rest of the world look out for itself.

It will take strong leadership to counteract that impulse and to convince the people that isolation is impossible.

We live in one world. And whether we like it or not, we cannot withdraw from our relationships with other countries in that world.

It is reasonable and constructive to hold a summit to deal with our economy—so long as we don't narrow the scope of the problem to one of purely national interest.

For, to be realistic about it, there is no longer a distinction to be made between national interest and global problems.

The problems of war and peace, of political oppression and exploitation, of population growth and food supply, of energy and industrial development, of international trade and access to raw materials, of transportation and pollution—all these are global problems—as is the problem of economic stability which preoccupies us now.

And so I call on our policy-makers to take a global view of the economy—a global view and a long-range view, mindful of our obligations to our allies and to the developing nations of the world.

And again I urge a global approach to foreign policy. Big Power politics is an increasingly obsolete concept.

Naturally, we should seek to improve relations with both Russia and China, rejecting the temptation to take sides in any conflict between them, or to play off one side against the other.

But we cannot expect to build a structure of world peace on a special relationship with either China or Russia while neglecting our traditional allies and our potential allies.

There are many new actors on the world scene today whose roles are becoming major. We neglect them at our own risk.

In the past, while small countries could involve great powers in war, they could not affect the welfare and economic well-being of the great powers.

.Now they can.

Through their policies on population control, industrial development and trade expansion, through their control of vital raw materials, they have the power to disrupt our economy and retard our economic growth.

The notion of a Third World which is poor and unimportant no longer makes sense. In Asia, in Africa, and in Latin America, there are many poor countries—but they are not unimportant.

They are critical to our own welfare—because of their resources; because of their population pressures; because of their increased demand for food and fertilizer; because of their needs for development; and—in some instances—because of their strategic locations.

We cannot afford to neglect them.

A foreign policy based on the outmoded concept of Big Powerism neglects too much.

True detente must address itself to all sources of conflict in a complex and interdependent world. It must not be compartmentalized or limited to certain countries, or to specific ideological disagreements.

Our national security is at stake. And our national security depends on far more than a lessening of tension with the U.S.S.R. and China, as important as that might be.

It also depends on the strength of the NATO alliance; on our relationships with Japan, with Canada, with our neighbors in Latin America and with other developing countries.

Our national security also depends on our response to the potentially dangerous pressures of world-wide inflation; food, energy and raw material shortages; the population explosion and havoc in the international monetary system.

Finally, we need to reassert our moral leadership and humanitarian concerns in our dealings abroad.

I agree with Secretary Kissinger that we cannot interfere with the internal policies of other nations whenever they diverge from ours. We must be sufficiently mature politically to maintain open lines of communications with countries whose policies and systems of government differ from our own. We should refrain from forcing our values on others.

But we should not be apologetic about those values. And we should not hold them in silence.

When we neglect our traditional ideals in the name of "realism," we pay the price in cynicism and loss of self-respect.

This is a price we need not pay. Realism and idealism can co-exist; both are essential to a global foreign policy.

We need to forge a foreign policy that is consistent with our domestic policy—and to make both consistent with our national character at its best.

HEALTH PROFESSIONS EDUCATIONAL ASSISTANCE ACT OF 1974

Mr. DOMENICI. Mr. President, I would like to take this opportunity to express my reasons for supporting the substitute health manpower measure cosponsored by Senators BEALL, DOMINICK, and TAFT to S. 3585, the Health Professions Educational Assistance Act of 1974.

While the sponsors of S. 3585 and the Labor and Public Welfare Committee are to be commended for their thorough documentation of the problems of doctor shortages, the shortage of primary care physicians, and our overreliance on foreign medical graduates, I believe they recommended solutions which are not in the best interests of the Nation.

I agree with the premise that ways have to be found to get doctors and other health personnel to underserved areas. There is probably not a single State that does not have medically underserved areas in them, and few, if any, can point to any improvement in the last decade. In New Mexico, we have the problem also, and the shortage has gotten worse.

All of us are aware of the scarcity of primary care doctors. The geographical and specialty distribution problems are related, because specialists have to practice in population centers in order to earn a living. Family practitioners on the other hand, can earn a good living serving far fewer people because they handle 80 to 90 percent of all the families' problems. The family or general practitioner is trained to handle most of the family problems, referring the most difficult cases to the specialist.

All of us are aware, too, of the staggering increase in the number of foreign medical graduates coming into this country to practice in recent years. When one-half of the newly licensed physicians in this country are foreign medical graduates, as was the case in 1972, and when serious questions are raised about the quality of these physicians, it is time to do something about the problem.

It it obvious that we need to do something about the entire matter now. While action is required, we must be sensitive to the rights of the physicians, and other health professionals, who we are expecting to serve in underserved areas. A doctor draft is not the answer. Based on the available evidence of student receptivity to scholarship programs, and other incentives for medical schools proposed in the substitute bill, we should be able to correct the problems of geographical maldistribution and speciality maldistribution. As Senator BEALL has pointed out, medical students have applied for scholarships in return for service in medically underserved areas in surprisingly large numbers. This fact is particularly encouraging in view of the very short time these programs have been in effect and the modest amounts of publicity that apparently have been given to these programs.

The substitute proposed by Senators BEALL, DOMINICK, and TAFT also deals forthrightly and effectively with the foreign medical graduate problem by exercising quality controls through amendments in the Immigration and Nationality Act. In addition, this approach allows the Federal Government to act in an area where it clearly has jurisdiction. Foreign medical graduates have served to disguise some of the weaknesses in our health system by providing care in our emergency rooms, our mental institutions, and our inner-city hospitals. It is time we dealt with these problems by training U.S. citizens to assume these responsibilities.

In addition, the substitute bill will leave the licensure of physicians and dentists where it belongs—with the States. Above the legal questions raised concerning Federal involvement in licensure, the evidence doesn't support the action proposed by S. 3585 as reported by the committee. States have made impressive strides in developing uniform standards for licensure for all States,

with all but two States adopting the so-called Federal licensing examination—FLEX.

Regarding relicensure or recertification, I think the fact that the issue has been raised by task forces, commissions, and others over the last 50 years reflects a legitimate concern that physicians and other health professionals continue to provide high quality care for as long as they practice. But again the reported bill is an overreaction to the problem. States and specialty boards already are actively working in this area. Two States have enacted laws on relicensure and 22 out of the 23 speciality boards are considering recertification.

Finally, I am particularly gratified with the unanimous support of my colleagues for a proposal I suggested be added to the substitute measure. This amendment to the legislation would provide incentives for experienced doctors and other health personnel to relocate in rural and underserved areas. Through the implementation of this provision, I envision a retired doctor living in a crowded area of the country choosing to live his latter years serving a more remote area. Such a doctor may choose such an area in New Mexico for his own health even working only part-time. My amendment will permit States to develop ways and means to better encourage doctors to do this. Through the enactment of this provision that possibility may become a reality.

In summary, S. 3585 as reported by the Labor and Public Welfare Committee deals with the right problems, but tends to exaggerate them. It proposes solutions which are not in the best interests of this Nation. The substitute proposed by Senators BEALL, DOMINICK, and TAFT has put the problems of health manpower in proper perspective and proposes solutions which fit the problems.

TAX REFORM

Mr. MOSS. Mr. President, tomorrow the economic summit conference begins its search for answers to our economic crisis. I hope that a clear-cut anti-inflation counterrecession program will emerge. Time for economic summits is running out.

We are in the midst of our sixth postwar recession and many economists are predicting that it will be our longest and most severe The stock market has dropped to a 12-year low, interest rates are the highest in our history, the building industry is on the edge of collapse, productivity increases are nonexistent, and inflation threatens to push the Western world into depression. There are rising doubts about the ability of the economy to guarantee the achievement of economic prosperity. As the average worker sees his real income decline, he becomes more aware of the growing gap between the rich and the rest of the population. He knows that many individuals and corporations escape the payment of taxes through tax preferences and loopholes. If the current economic trends continue the awareness of this inequality will increase as will the realization that economic expectations can best be achieved only if income and wealth are more fairly distributed.

A more equitable distribution of income can be accomplished in several ways; by Government programs and subsidies that go to the less affluent but are paid for by the more affluent, such as welfare benefits; by tax-funded Government programs such as national health insurance, which would replace expensive commercial health insurance plans; through educational programs that enable people to obtain better jobs; or through tax reform.

The Federal income tax has long been considered the logical device to guarantee a fair or equitable income distribution but it has not functioned this way because it is riddled with loopholes and preferences for the rich and powerful. Mr. President, the Federal income tax system has the potential of being one of the most effective weapons in dealing with the inequities of our economy. However, without tax reform there is little hope that these inequities can be eliminated.

The administration is hinting of tax relief for the lower income workers to help them cope with inflation. This represents a significant change in direction and one that must not go unnoticed by this Congress. We must capitalize on this change in direction now and enact legislation that will give meaningful relief for those hit hardest by inflation.

On September 12, 1974, the Senate Democratic Conference adopted an agenda for an anti-inflation counterrecession program. Part 4 of this agenda reads as follows:

> A tax policy which assures that no segment of the economy will enrich itself by capturing excessive profits during the present period of economic hardship and recognizes that special relief must be accorded to those hit hardest by inflation—those in low and moderate income categories and those on modest fixed incomes.

Only tax reform can achieve this. The Congress has made it clear to the President that they stand ready to reconvene in November to act on major legislation to meet our economic crisis. Tax reform should be high on this list of major legislation.

Tax reform came unexpectedly to the foreground as a political issue during the 1972 Presidential campaign. However, it was soon elbowed aside by the prospect of peace in Vietnam and charges of political corruption. The need for tax reform has not diminished. In fact the recent inflation has increased the urgency for meaningful reform. Tax reform provides an opportunity for the Congress to not only minimize the effects of inflation, but an opportunity to fight inflation.

Many experts believe that inflation is a natural result of large budget deficits and that if inflation is to be halted a balanced budget is required. I agree that we must move toward a balanced budget. Certainly an elimination of wasteful Government spending is a necessary first step. But we should move with care. To recommend a cut in spending is easy. To evaluate the results of such a cut is difficult. Nevertheless, cutting expenditures to achieve a balanced budget has received "great press." I urge that equal attention be given to the possibility of reducing our deficits by increasing our revenues through tax reform. In my view, the budget picture in the years ahead will not only continue to be a tight one but expenditures will outstrip built-in revenue growth. Legislation for additional tax revenue will most likely be needed. Tax reform should be a key part of any such legislation. There are specific reforms for both corporation and individual income tax systems that will not only improve the "fairness" of the tax system but will also raise revenues to offset any budget deficits.

One of the largest tax loopholes is the tax treatment of capital gains. Any capital gain on the sale of an asset at a profit above its original cost is more lightly taxed than ordinary income, and there is no capital gains tax at all if the asset is held until death and then transferred to the heirs. The great bulk of all capital gains benefit goes to the wealthy few. In 1972, taxpayers with incomes of $100,000 or more saved an average of $39,000 each in capital gains tax breaks. Those in the $20,000 and under group—90 percent of all taxpayers—saved an average of $14 each. In light of these facts, it seems incredible that the House is discussing proposals that will reduce even further the tax rate on capital gains.

The essence of the proposal is to reduce the proportion of capital gain included in taxable income from its present level of 50 percent. After the first 5 years capital gains tax will be reduced 1 percent a year for each year the asset is held, not to exceed 20 percent. This means that a taxpayer holding an asset for 25 years or longer will be able to exclude 70 percent of the capital gain from his taxable income. Those favoring this legislation argue that current inflation justifies a reappraisal of capital gains taxation. They contend that much of any capital gain is simply due to inflation. For example, an individual who owns an asset that doubles in value at the same time the consumer price index doubles in value is really no better off in terms of purchasing power. In the name of tax equity, so the argument goes, adjustment of this inflation should be by the tax system. This argument sounds good, but I fail to see how reducing capital gain by 1 percent a year for each year an asset is held is an equitable solution. This will result in lavish benefits to the wealthy and in most cases more than compensate them for the effect of inflation on their assets.

The easiest and most efficient way to eliminate the effect of inflation in the measurement of long-term capital gains is to express both the original cost of the asset and the sale price of the asset in comparable terms and thereby determine the real gain. Once this real gain is determined, then ordinary income tax rates should be applied to compute the tax liability. Equity requires that we make some adjustments for inflation in taxing capital gains. I share the view that the inflation component of capital gains should not be taxed with the tax applying only to real gains;

that is gains adjusted to compensate for inflation. But equity is a two-edged sword and when equity requires determination of real capital gains for the tax base, equity also requires that these real gains be taxed at ordinary income rates. To allow the equity issue to cut in only one direction—that of the favoring the wealthy—is highly unjust.

Assume a taxpayer is in the 40 percent income tax bracket, invests in some stock in 1936 for $1,000 and sells the same stock in 1973 for $7,000. Under these conditions this taxpayer's current capital gains tax liability would be $1,200. If the proposal by the House should be enacted this taxpayer's capital gains tax would be cut almost in half, resulting in a capital gains liability of only $720. However, if this capital gain liability were adjusted for inflation and then taxed at his ordinary income rate as I suggest, his capital gains tax liability would be $1,480 or $280 more than he is now required to pay under current capital gains rates.

It is important to note that the current House proposal would mean a $700 million loss in revenues. Under my proposal this loss could be avoided and some additional revenue generated.

Mr. President, at issue here is the question of equity. Is it fair to increase the benefits for capital gains by an estimated 700 million, most of which would go to the top 1 percent of taxpayers, while the low- and moderate-income categories receive little relief?

Any tax reform must be sensitive to the extreme capital shortage facing American business. At a time when bottlenecks and shortages are contributing to inflation we must be careful to avoid tax measures that would lead to serious investment disincentives. Many have argued that a reduction or elimination of the oil depletion allowance would lead to such disincentives. I cannot agree. The elimination of the oil depletion allowance should be a goal of this Congress. The depletion allowance has been justified as necessary to stimulate production. There is little evidence that the depletion allowance has stimulated the production of oil while there is overwhelming evidence that depletion allowance has fattened the profits of the oil companies. In light of the current increase in oil prices, as much as $6 a barrel or 150 percent, the depletion allowance is an unnecessary incentive that is costing the American taxpayer up to $2 billion a year. A subsidy of this size to an industry whose profits increased by 52 percent the last year and paid an average of only 8 percent of its income in taxes cannot be tolerated any longer.

The capital gains tax and oil depletion allowance are only two sections of the tax system that are in need of reform. Other reforms are necessary to generate revenues that will offset revenues lost by tax reduction and relief to low- and moderate-income categories. Relief for the low- and moderate-income groups can most easily be accomplished by revisions of the social security tax system. The present system is a flat 5.85 percent tax on the first $13,200 of income each year instead of being a progressive tax based on the worker's ability to pay. Every dollar earned is taxed the same, so that the same percentage of income is collected from the poorest worker as from the middle-income worker making $13,200.

Since income above $13,200 is not taxed, a maximum of $772 a year is the highest any taxpayer can pay. Therefore, the overall rate, as a percentage of income, drops for the wealthier taxpayer. For a person with $30,000 of income per year, the $772 is really only a 2.57 percent tax rather than the 5.8 percent it is supposed to be. For this reason the tax is regressive and violates the underlying principle of the tax system; namely, that the greatest burden should fall on those who are in the best position to bear it.

The 5.85 percent paid by the wage earner should be reduced. This is too much for the modest- and low-income groups to pay. It would be well to examine the possibility of setting a floor on income and those below that floor would be excluded from social security tax. This would help reduce the regressiveness of this tax and provide tax relief to those groups who have always carried the burden of social security taxes. Efforts should also be made to raise the limit on the income subject to social security taxes from $13,200 to $20,000. This would help pass the burden of these taxes on to the higher income groups who are better able to afford it.

Mr. President, a comprehensive tax reform bill must be enacted in this session of Congress. I have examined some of the most important areas for reform; capital gains, depletion allowance, and social security taxes. There are many others. It is only through tax reform that we can find our way back to fiscal responsibility and equitable tax treatment for the average American taxpayer.

In these times we must find ways to reduce the burden on our low- and moderate-income families. They are perfectly willing to share the duties and the obligations of citizenship in this country, but they should not be required to bear a disproportionate share.

A REPORT ON THE ACTIVITIES OF THE SENATE SUBCOMMITTEE ON FOUNDATIONS DURING THE 93D CONGRESS

Mr. HARTKE. Mr. President, the Senate Subcommittee on Foundations, which I chair, is one of a series of subcommittees which was established by the Senate Finance Committee during the 93d Congress. I have been privileged to serve on this subcommittee with Senators FULBRIGHT, GRAVEL, CURTIS, and FANNIN. Together, we have sought to examine the role which private foundations are playing in our society today. It is a most important subject, since foundations serve as one alternative to Government philanthropy. At a time when some Government officials are calling for a cutback in Federal social welfare programs, the role of foundations becomes all the more important.

The Subcommittee on Foundations has held hearings to examine the impact of the provisions of the Tax Reform Act of 1969 on foundations and on the recipients of foundation grants. On one of those hearing days, Commissioner Donald C. Alexander, of the Internal Revenue Service, appeared to answer a series of detailed questions pertaining to IRS supervison of tax exempt organizations. As a result of those hearings, it became evident that IRS was unable to provide certain basic information which the subcommittee needed in order to evaluate the impact of the 1969 act.

Commissioner Alexander has informed me that he shared my concern about the inability of his agency to provide the subcommittee with answers to important questions and that he has directed his staff to provide the subcommittee with much of the information which IRS was unable to supply during the hearings. This information should be of significant interest to the subcommittee and to the public.

In addition, Commissioner Alexander has informed me of his intention to make major changes in IRS procedures for auditing exempt organizations. These changes came about in part as a result of the subcommittee's hearings and should have significant long-term effect.

The subcommittee also held hearings into the role of foundations in public broadcasting. This was the first in a series of hearings which will examine the substantive work of foundations. While it is too early to determine the impact which the hearings on public broadcasting will have, I expect that they will result in increased foundation support of public broadcasting and perhaps an improved geographical distribution of foundation grants to public broadcasting.

The staff of the subcommittee has worked very closely with the Filer Commission, a private group of distinguished citizens which is examining the role of private foundations in our society. Much of the work of that Commission parallels the areas of the subcommittee's interest. It is expected that the Commission will have recommendations to make to the foundation community, Congress, and the public by spring, 1975.

I have also asked the staff to prepare a report on recommended legislation which should be high on the list of priorities. That report is expected within the next few days.

Finally, I have asked the staff to prepare a list of topics which may occupy the subcommittee's interests for the next 2 years. That list is divided into two series of hearings: Series No. 1 deals with matters related to the tax law, and Series No. 2 deals with the substantive activities of foundations. I ask unanimous consent to have the lists printed in the RECORD.

There being no objection, the list was ordered to be printed in the RECORD as follows:

SERIES No. 1

(1) Experience of Private Foundations Under the Tax Reform Act of 1969:

(NOTE.—Each of the following subdivisions could be a separate hearing:)

(a) 4% Tax on Investment Income:

(1) Justification.

(2) Revenue produced.

(3) Impact on charitable recipients of foundation grants.

(4) Alternatives and proposals for change.
(b) Minimum Payout Provision:
(1) Justification.
(2) Impact on private foundations.
(3) Impact on charitable recipients.
(4) Standards used in setting applicable percentage.
(5) Alternatives and proposals for change.
(c) Excess Business Holdings:
(1) Is the current rule too restrictive?
(2) Application of rule to debt securities.
(d) Program Restrictions:
(1) Legislative and political activities.
(2) Grants to individuals.
(3) Expenditure responsibility.
(e) Birth, Mortality and Transfiguration:
(1) Impact of the 1969 Act on birth, mortality and transfiguration of private foundations.
(2) Use of tax law provisions as a means of escaping private foundation requirements.
(2) Activities and Practices of Public Charities:
(a) Fund Raising Practices.
(b) Administrative and Overhead Costs.
(c) Relationship to Other Exempt Organizations.
(d) Amount of Support from Public.
(e) Degree of Public Involvement and Control.
(f) Degree of Public Financial Disclosure.
(g) Problems of Definition Under the Tax Law.
(h) Duplication of Effort.
(i) Legislative Activities.
(j) Gifts of Appreciated Property.
(3) Small Foundations:
(a) Problems under the 1969 Tax Act.
(b) Contribution to Society.
(c) Proposals for Legislation.
(4) Community Foundations:
(a) Problems under the 1969 Tax Act.
(b) Degree of Public Support.
(c) Proposals for Legislation.
(5) Governmental Supervision of Foundations:
(a) State Governmental Regulation and Relationship with I.R.S.
(b) Federal Governmental Regulation:
(1) Assistant Commissioner.
(2) Need for on-going supervision by independent commission.
(3) Congressional need for information.
(6) Relationship Between Foundations and Government:
(a) Duplication.
(b) Cooperation.

SERIES No. 2

(1) Problems of the Aging.
(2) Higher Education.
(3) Health.
(4) Environment.
(5) Mental Health.
(6) Minority Needs.
(7) Urban Problems.
(8) Transportation.
(9) Arts.
(10) International Affairs.

Mr. HARTKE. Mr. President, these two lists indicate the challenging scope of work which lies before the subcommittee during the 94th Congress. This is subject matter which has not been covered by Congress since 1969, and much of it was not covered prior to 1969. Involved in these hearings are a variety of subissues such as:

How much benefit is the public receiving from the tax exemption accorded private foundations?

Is too much of private foundation wealth being wasted on duplicative, noninnovative, or self-serving efforts?

Are foundations too isolated from the public and from public concerns?

Do foundations really know what they are doing? How tightly defined is their purpose? How do they make their grant decisions? How effectively do they monitor their grants?

I am also concerned about the impact which the present economic crisis is having on foundations. Recently, the Ford Foundation—which is the Nation's largest—announced that it might have to cut its grants for next year in half, because it has lost $1 billion in assets. If this pattern is repeated throughout the foundation community, the results will be disastrous for many worthwhile programs and activities throughout this country.

The subcommittee has already compiled much information never before available to Congress. By this time next year, I expect that we will know enough about private foundations to make rational policy recommendations for legislation.

INFLATION AND TAXES

Mr. ROTH. Mr. President, recent press reports indicate that the President is considering a proposal to provide tax relief for low-income families by requesting that the Congress enact a tax cut bill. This recent "trial balloon" proposal would reduce the personal income taxes of these families to help them cope with inflation.

But inflation has affected not only the lower income families, but the middle-income families as well. Since 1962, taxes have been consistently cut for the lower-income families at the expense of those in the middle-income categories, who have been pushed into higher and higher tax brackets.

Any tax change that is proposed should be carefully examined to insure that it does not add to inflation while being labeled as a means to provide relief from inflation.

While I have a serious question about this tax proposal, I do not think there is a need for immediate action on a two-step tax reform plan. My proposal would:

First, allow up to $500 per year in interest income from a savings account to be tax exempt.

Second, impose a windfall profits tax on the petroleum industry and phase out their percentage depletion allowance.

This proposal would protect the hard-earned savings of our elderly, aid the housing industry, and insure fiscal responsibility. The estimated revenue loss of $1.5 billion from the savings exemption proposal would be offset by a $1.5 billion tax increase on the petroleum industry.

The net effect of these proposals would be to reduce the inflationary bias of our tax system while at the same time providing a small, but productive, tax break for people strapped by inflation.

The Federal tax system is presently structured in a way that is biased against personal savings and in favor of consumption. This in itself is one of the prime causes of inflation. My savings exemption proposal would remedy this situation and at the same time help the ailing housing industry by funneling more funds into mortgage loans.

In order to pay for this savings incentive, we should adopt a windfall profits tax and phase out the depletion allowance. These actions will reduce the windfall profits of the oil industry and produce the necessary revenues to insure a balanced budget.

The free market system should be used to resolve the energy problem we are now experiencing. The petroleum industry is experiencing the highest profits in its history, and it should be able to get along without the crutch of a Government tax subsidy.

Mr. President, the one consensus that has emerged from the series of presummit conferences is the need for a balanced budget. I intend to recommend policies to achieve a balanced budget at the Economic Summit Conference tomorrow, along with policies to promote productivity and investment. I also will reiterate the proposals I have just made for a savings incentive and increased taxes on the oil industry.

Inflation is our most serious problem, and we have to realize that there are no easy answers. The Federal tax laws are too complex and interrelated to make quickie changes to produce instant results. Any changes that are made should take into account the full effects on the Federal budget and inflation.

Inflation is a cruel burden on every American, and we should take a long, hard look at our tax laws to formulate changes to reduce inflation, not just the tax bite.

THE REAL ECONOMIC THREAT

Mr. MONDALE. Mr. President, the September 22 New York Times contained a superb editorial entitled "The Real Economic Threat."

That threat is the quadrupling of world oil prices by the OPEC cartel, and the enormous strains this is putting on the world economic and political system.

It has been widely assumed that, because the gas lines have gone, the energy crisis is over. It is not. It has been transformed from an acute but temporary inconvenience to a much broader, more fundamental, more complex, and more serious set of problems.

It is no longer a relatively simple question of supply and demand. It now involves the stability of nations, the continuing viability of many political and economic institutions, and the longrun chances for world peace.

The Times editorial discussion of the implications of this threat, and the directions in which we must begin to look for solutions, is wide ranging, thoughtful, and imaginative.

I urge my colleagues to read it, and I hope that we can join together with the administration, and with other nations, to begin to deal with this terribly difficult and urgent problem.

I ask unanimous consent that the Times editorial be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

THE REAL ECONOMIC THREAT

The United States and the rest of the non-Communist world are facing an extreme threat to the global economy that is receiv-

ing only peripheral attention in the conferences President Ford has initiated to fight "public enemy No. 1"—inflation. The threat is unprecedented; it involves sudden and massive transfers of income, wealth and power to the small group of oil-exporting countries, with corresponding drain of staggering dimensions upon the resources of oil-importing countries. Only a few days ago the oil exporters, meeting in Vienna, again made clear their determination to maintain and even increase their "take."

I. DIMENSIONS OF THE CHALLENGE

As a result of a quadrupling of oil prices in the last year, the accumulation of foreign funds by the Arab states and other members of the international oil cartel will in this year alone amount to some $75 billion.

The problem will intensify the longer it lasts—and there is no end in sight. With two to three billion dollars flowing to the oil producers *every week* for years to come, the World Bank estimates that the Organization of Petroleum Exporting Countries (OPEC) could accumulate $650 billion within five years and $1.2 trillion by 1985. By comparison, the international reserves of foreign exchange and gold owned by the United States now amount to $14 billion, and those held by Germany—at present the largest holder of gold and foreign exchange in the world—total $34 billion.

If anything like the shift of wealth indicated by the World Bank's projections comes about, the oil-producing states of the Middle East will become the center of world wealth and power. Those nations will be able to import vast quantities of armaments and advanced military technology from the West, as they have already begun to do. They will have a growing influence over the business and government establishments of many other countries and will be able to acquire vast holdings of industrial and real estate properties in the West.

The sudden skyrocketing of oil prices by the international monopoly is now a major source of inflation and balance-of-payments instability, as importing nations struggle to meet their foreign oil bills. For many countries, the oil bill simply cannot be paid if present prices hold. Nations with weak economies and weak international payments positions—such as India and Italy—are being driven into insolvency. Their breakdown could spread to other nations and financial institutions throughout the world.

The internal prices of most oil-importing countries have already risen in sharp response to the rise in the international price of oil, thus moving toward a theoretical balance at a highly inflated level. But if the oil importers permit international balance to be achieved in this way the results will be disastrous. The worldwide inflationary spiral would surely get out of hand, undermining the value of all currencies. In any event, the oil producers appear determined to maintain their new relative price advantages by raising oil prices further as inflation continues. Some are prepared to cut back their oil production in order to keep prices up and in fact have already begun to do so.

II. NEED FOR A COUNTERFORCE

The time has come to speak plainly. The United States and its allies must take effective economic action against the international oil cartel.

A viable program is now urgent to counter the double threat of world inflation and world depression. The first requirement is to recognize, at the series of conferences President Ford is holding with economists, business, labor and other leaders, that inflation cannot be solved without a fundamental attack on the worldwide energy problem. Simply stated, the price of oil must be brought down, and this country and others must develop alternative sources of energy on a "crash" basis.

Optimistic economists have contended that the problem of "recycling" oil dollars can be dealt with by normal capital markets—this on the theory that the oil-producing states must invest their money "somewhere." Unfortunately, an automatic re-establishment of equilibrium is not a realistic possibility; the flows are simply too huge. The international imbalances grow daily.

Unless equilibrium is restored to the world economy by sharply reducing the oil price, not only the United States and other oil-importing states but the oil-producing countries themselves will suffer in a general economic catastrophe. Their seeming wealth will prove worthless paper; their development programs will founder; their security will be jeopardized.

Powerful though such considerations should be, the United States cannot depend on their force alone to bring down the oil price, nor can it meet the challenge by simply offering its own economic cooperation to foreign development programs.

The only effective counterforce will be a demonstration by the United States and its allies that they mean business, that they are prepared to act in their own defense to safeguard the world economy from breakdown.

III. PROGRAM FOR SURVIVAL

Since the primary obligation will rest on this country, an essential starting point is a call by President Ford for an all-out program of energy conservation, beginning here at home. This means a Presidential call on all Americans to make genuine sacrifices far beyond anything implied by former President Nixon's "Project Independence." Such a plan will necessitate a program to restrict, or penalize the wasteful use of petroleum, whether in autos, air-conditioning, heat or industrial use.

To the degree possible, such an austerity program should depend on voluntary measures and on taxation designed to limit energy consumption. In the interests of fairness to all citizens and of balance to the economic system, a stand-by program of rationing and fuel allocation may also be required.

The United States has to be prepared to put forward specific plans for sharing its own fuel with those who will be affected even more severely by the necessity for energy conservation. At the same time, the President will have to revitalize the faltering efforts initiated a year ago to provide this country and others with alternative fuel sources. Similar efforts to conserve fuel and to develop energy sources will be needed in other industrialized nations, most of which are vastly more dependent on Middle East oil than is the United States.

In recognition of that disparity, the United States must do now what it would have to do in any case by the end of this century: develop other energy sources including especially coal, natural gas and nuclear and solar energy.

This country has enormous recoverable coal reserves—33,588 quadrillion B.T.U.'s of energy, more than seven times the oil reserves of the entire Persian Gulf and North Africa. To develop its own coal and other energy resources, the United States will have to insure an adequate price for coal and other fuels. American producers and investors will need the assurance of a profitable long-term supply price if they are to be willing to make the billions of dollars in necessary investment.

The difficulties of such a program cannot be underestimated. There will be transitional problems of production and employment as some industries retract and change their technologies and others expand; national policies to facilitate the conversion and ease the burdens on particular industries and workers may be necessary.

The preservation of environmental quality, without lowering current and projected standards of improvement, presents difficult problems that can and must be overcome by willingness to meet the necessary expenditures for continued environmental protection.

To carry through the needed conversion without sacrificing protection and improvement of the natural environment will necessitate intelligent social planning and a readiness to cover the costs, through a combination of adjustments in energy prices, profits and taxes, and through governmental subsidies to protect the nation's air, water and earth.

IV. INTERNATIONAL COOPERATION

The President should offer the full cooperation of the United States to other countries in a major program of research and development for existing and new forms of energy. And this country should work with others in building up stocks of fuel that will enable it and its partners to withstand the threats, blackmail or embargoes of the members of the international oil cartel. Work in that direction has already begun through the Energy Coordinating Group nations of North America, Western Europe and Japan, but that work needs vast acceleration, with heads of state giving the task highest priority.

The United States and other major industrial countries which have been treated as a safe haven for the growing hoard of petrodollars could bring additional pressures on the oil-exporting countries by limiting their right to invest in these safe countries beyond the amounts needed to cover the deficits in balance of payments. Such action might persuade the cartel to see the necessity of reducing oil prices and restoring relative equilibrium to the world trading system.

American leadership could head off a mad and needless world economic catastrophe as fraught with danger to political stability and peace as was the Great Depression. The solution to both domestic and world inflation hinges on the international energy problem, as does the hope of avoiding a world depression and breakdown in trade and payments.

V. MR. FORD'S OPPORTUNITY

The nation now needs a short-term and long-term plan on energy. Here is the President's opportunity to enable the nation to regain control over its own destiny and to serve the interests of the entire world in the process.

If Mr. Ford will tell the nation the truth about the urgency and scope of the energy crisis and the necessity of meeting it with a full-scale conservation and development program, he will find Americans ready to respond as they have to other threats to their security and well-being. And if the United States takes the lead and proves it is ready to make the necessary sacrifices and expenditures of money and effort, other threatened oil-importing nations will almost surely join in.

It is impossible to know in advance precisely what will be required to drive down the price of oil and lessen Western dependence on the oil cartel, or how long it will take. Flexible tactics and strategy will be essential, depending on the fruits of research and development, the response of other oil-importing countries, and the countermoves of the international oil cartel.

If the United States and its partners succeed in breaking the cartel or bringing oil-producing states to their senses, with a con-

sequent fall in the price of oil, the scale and rates of Western energy conservation and development would be affected but the need for such a program would not be eliminated. Indeed, the greatest argument for an all-out effort now is that it will not only help to prevent a worldwide economic and political disaster in the short run but that it is vital to world economic development in the long run.

The world economy must convert, within the next few decades, from dependence on the limited and disappearing supply of petroleum to other energy resources and technologies. Sensible conservation measures are crucial to bridge the transition. And it is essential to find practical ways to combine energy development with environmental protection, for the sake of human survival as well as the economic well-being of all people. There should be no further delay in this country's launching of an energy program capable of meeting both the immediate and long-range challenges.

SUPPORT FOR EXTENSION OF REVENUE SHARING, S. 3903

Mr. DOMENICI. Mr. President, I am pleased to be a cosponsor to S. 3903, a bill to extend the original Revenue Sharing Act. I would like to share with my colleagues some of my reasons for supporting this bill.

Revenue sharing is undoubtedly one of the most genuinely effective and responsive programs ever undertaken by the Federal government. Simply said, it helps put the money where the problems are. That is a simple concept and what makes it even more acceptable is that it works.

My distinguished colleagues who introduced this bill have already pointed out that in hearings held by the Intergovernmental Relations Subcommittee this spring there was unanimous approval and strong support for the program from local and State officials, regardless of party. This is support for the program as a real live operation, not just as a concept of government.

In my own State of New Mexico I conducted a survey of all the local government recipients of revenue sharing funds to learn how they feel the program is working. Of the 170 local governments contacted there was only one adverse comment.

I request unanimous consent that the letter of inquiry I sent to the local officials, together with the questionnaire which accompanied it, be printed in the RECORD as exhibit No. 1 at the conclusion of my remarks. I further request unanimous consent that three replies I received which are typical of the general response be printed in the RECORD as exhibits No. 2, 3, and 4. These replies are from the county of Sante Fe, the city of Albuquerque, and the San Juan Indian Pueblo.

I intend in the near future to present the results of this survey in a formal manner to the appropriate subcommittees and committees of the House and Senate. For the purpose of explaining my support for this bill, I will say simply that the strong points of revenue sharing from the point of view of local officials in New Mexico are at least these:

First, as I mentioned earlier, it just makes sense to put the money where the responsibility and the burden are—at the State and local level for most governmental activities.

Second. General revenue sharing has met a critical need for fiscal relief for local governments.

Third. It is being spent where most citizens want and need it to be spent.

Fourth. Revenue sharing is inexpensive to administer, especially compared to most grant-in-aid programs.

Fifth. Citizens participation in government is being improved as new mechanisms are developed to set more realistic priorities for its expenditure.

Sixth. It is easy for all types and sizes of governments to meet the relatively few requirements attached to the shared money.

In summary, this survey showed that the vast majority of local officials in New Mexico are pleased with revenue sharing. What is even more important is that revenue sharing was unanimously praised as being less expensive to administer, less tied down by redtape, and more responsive to local needs than the categorical grant-in-aid system.

So, it is obvious that revenue sharing is a valuable program for local government. That value will be greatly reduced, however, if it cannot be counted on in the budget process that local government must wrestle with constantly. This bill, S. 3903, would eliminate that uncertainty by extending revenue sharing before the budget process becomes a factor.

I fully realize that there is room for improvement and that modification of some particular aspects of the program may be in order. I encourage congressional activities to determine the best approaches to modification for improvement purposes and I will participate in those activities armed with the best and most complete information and advice I can obtain.

In the meantime, however, I urge my colleagues to support this bill and work toward its swift enactment.

There being no objection, the three replies were ordered to be printed in the RECORD, as follows:

EXHIBIT 1

U.S. SENATE,
Washington, D.C., June 21, 1974.

DEAR FELLOW PUBLIC OFFICIAL: Much discussion has centered in recent days on Revenue Sharing. In order for me to accurately represent the views of public officials who actually deal with Revenue in our state, I must have your opinion.

As you know, Senator Muskie of Maine is now in the process of holding oversight hearings on Revenue Sharing in the Intergovernmental Relations Subcommittee. If you would take just a moment to fill in the attached questionnaire, and mail it back to me as soon as possible, your views will become part of my presentation to Senator Muskie and a speech on the Senate floor.

I have been working toward decentralization of government and giving more power back to local entities. I would like to know whether Revenue Sharing is, in the opinion of people who actually work with the program, the way to achieve that goal. I often hear from people who are not involved with the actual administration of Revenue Sharing; now I would like to hear from you.

I hope that I can receive from our public officials a cross-section of opinion on Revenue Sharing that accurately reflects our state's experience with this new program.

Thank you for your time and interest.

Very truly yours,

PETE V. DOMENICI,
U.S. Senator.

P.S.—If you are especially pressed for time, and cannot answer in full, please answer the questions with an asterisk to give me a brief impression of your experience.

QUESTIONNAIRE FOR REVENUE SHARING

1. Do you believe that Revenue Sharing should be continued as a federal program or cease to exist?

Revenue sharing should continue to exist.

2. For what purposes have you been using your Revenue Sharing funds. (Please use additional space to answer if necessary.)

a. avoid tax increase.

b. provide much needed capital improvements.

c. purchase necessary materials and equipment to meet new Federal Safety Standards, begin to implement Federal and State regulations regarding land fills, water and sewer treatment and law enforcement procedures.

3. Who and how do you decide where Revenue Sharing monies will be used? Are groups, organizations and other constituents given a voice in the decision process?

Public meetings are used to decide how and where Revenue Sharing monies will be used.

4. Do you have any complaints about the administration, procedures, or uses permitted?

The present administration, procedures and uses permitted are equitable.

5. Have you wished to use your Revenue Sharing funds for purposes that you discovered were prohibited by the federal Revenue Sharing legislation? What programs?

Negative.

FOR THOSE WITH GRANT-IN-AID EXPERIENCE

1. In your judgment is Revenue Sharing an effective program compared to the Grant-In-Aid, categorical program?

Revenue sharing is more effective.

Sincerely,

BERNARD C. TAYLOR,
City Manager.

2. Does Revenue Sharing require fewer administration employees than the Grant-In-Aid program?

3. How would you compare overhead expenses of Revenue Sharing compared to Grants-In-Aid?

4. How would you compare the time and effort it takes to administer a Grant-In-Aid program compared to the Revenue Sharing program?

5. How would you compare the time elapsed between appropriation of Revenue Sharing funds to time of actual use by you? Is this time-frame faster than or slower than using Grants-In-Aid?

6. Please add here any comments you wish about Revenue Sharing and the Grant-In-Aid concept not covered in the above questions.

EXHIBIT 2

SANTA FE COUNTY,
Santa Fe, N. Mex., August 9, 1974.

Re: General Revenue Sharing.

Hon. PETE DOMENICI,
U.S. Senator, New Senate Office Building, Washington, D.C.

DEAR SENATOR DOMENICI: Commission Chairman, Ben Lujan, has asked me to answer your recent correspondence regarding your questions on the local effects of General Revenue Sharing.

I would like to say that I was very much interested in your remarks directed at local

government officials at our New Mexico Association of Counties Convention in Albuquerque last May regarding the decentralization of government giving more power back to local entities. I hope that the Congress will persue this philosophy in allowing local government to decide for themselves the priorities in their respective areas.

For your information, I offer the following answers and comments to your questionaire:

1. We believe that Revenue Sharing funds should continue to be sent down to local governments. However, we do not think that it is absolutely necessary to account in detail for the expenditure of the funds to the Federal Government. By this we mean that the money received from General Revenue Sharing should be added to the local government budgets and be considered a permanent source of revenue, subsequently distributed to all areas of local government and not limited to the several categories as now outlined by the program.

2. For your information, I will mail you a copy of our Actual Use Expenditure Report as soon as it has been prepared. In answer to your question, however, the Commission has approved the following under General Revenue Sharing:

Public safety, law enforcement (vehicles)	$11,859
Fire protection (fire fighting equipment, emergency equipment and housing facilities for four districts in the county)	53,611
Environmental protection: Comprehensive Land Use Plan	32,500
Solid waste disposal equipment (one bull dozer)	45,000
Public transportation, streets and roads:	
City of Santa Fe (this amount was allocated to the City of Santa Fe for street maintenance and repair within the City of Santa Fe)	50,000
County roads (Santa Fe County has over 600 miles of road to maintain; this amount would include gravel, asphalt, salaries for additional personnel picked up under the discontinuance of the Emergency Employment Act	200,000
Structures:	
Bridge Crossing in Nambe	24,000
Cuyamungue Bridge (50 percent of the cost provided by the State Highway Department)	200,000
Overflow sections, various	40,000
Various pieces of equipment and vehicles	186,000
Maintenance Shop (the maintenance shop currently in use is a dilapidated tin structure which is completely obsolete	195,000
Health: Headstart medical program—La Clinica de la Gente, Model Cities Clinic and New Vistas	38,000
Recreation: various recreation programs in the different Santa Fe County communities	10,000
Library: Santa Fe Municipal Rural Library program	7,500
Social Services for the poor and aged:	
Legal Aid	25,000
Community facilities, construction of the community center at Chimayo, N. Mex	60,000
Administration:	
County attorney	15,000
Furniture and fixtures in the Santa Fe County Courthouse	35,000
Courthouse remodeling	52,000
Re-roofing and general repairs to other county-owned buildings and facilities	6,000

In addition, it is expected that we will enter into a contract shortly for the construction of additional Courthouse space at a cost of approximately $160,000. As you can see, the great majority of funds have been expended on Capital Outlay items. However, they are essential items to serving the publics needs.

3. Decisions regarding the use of Revenue Sharing monies are made at public meetings of the County Commission. The last meeting held in May of 1974 was publicized and various groups were invited to attend and offer their advice and consideration of the many proposals before the Commission. Obviously, some proposals had to be turned down simply because there was not enough money to go around. All subsequent meetings of the County Commission relative to General Revenue Sharing allocation of funds will again be adequately publicized in order to insure public participation.

4. The only complaints we have received are from a local private school regarding the ineligibility of General Revenue Sharing monies for educational purposes.

5. No.

In comparing General Revenue Sharing to grant-in-aid programs, I would say that the general administration of Revenue Sharing monies is relatively inexpensive in that there are no lengthy reporting procedures to be completed by the local government as compared to the very lengthy reports for grant-in-aid projects. Obviously as time goes by and as we receive more money and institute new programs we will have to employ additional people, but of course, the money will be available through General Revenue Sharing.

I hope that the above information will help to promote the concept of General Revenue Sharing in the future. Please advise if we can be of further assistance in this regard.

With kindest personal regards I remain,

Sincerely,

DONALD M. SANDOVAL,
County Manager.

EXHIBIT 3

CITY OF ALBUQUERQUE,
Albuquerque, N. Mex., July 3, 1974.

Re: City of Albuquerque comments on general revenue sharing.

Hon. PETE V. DOMENICI,
U.S. Senator, New Senate Office Building, Washington, D.C.

DEAR PETE: Your interest in local government's perception of the General Revenue Sharing Program is greatly appreciated. As you know, we are often the first to be held accountable for government programs and the last to be asked for early design input. This opportunity to share our experience with you in a positive manner is a major step toward federal/local cooperation.

It is my intent in this communication to answer each of your questions in a concise but comprehensive manner. Before I get to the questions, however, I would like to express my general agreement with your basic position that local governmental entities ought to be a keystone of the New Federalism. The "no-strings" approach offered by Revenue Sharing is one of the major strategic elements in reaching the goal of a decentralized government. The new Mayor/Council form of government recently mandated by the voters of Albuquerque is a strong expression of the local concern for more responsive government. As we begin this new government, we shall be looking toward the federal establishment for active cooperation and participation.

Question No. 1: In answer to your first question, I strongly believe that Revenue Sharing should be continued as a federal program which is very effective in providing much needed resources for high priority local needs. In fact, our allocations have been primarily for continuing operating expenses, (see next response). Our ability to replace about $7 million per year without local taxing authority is very limited.

Question No. 2: The following table is a brief summary of our Revenue Sharing appropriations for Fiscal Year 1974:

Appropriation	Amount	Percent
Streets	[1] $1,081,749	14.59
Fire	[1] 2,922,683	39.42
Sworn police	1,278,420	17.24
Civilian police	128,193	1.74
Crime prevention	64,060	.86
Courts	227,188	3.06
City personnel	342,848	4.62
City vehicles	619,554	8.36
Open space	120,000	1.62
Fund balance	629,341	8.49
Fiscal year 1974 total	7,414,036	100.00

[1] These amounts do not totally represent net new moneys in these areas. Money made available in this manner were reallocated to other priority areas according to the revenue sharing regulations.

Question No. 3: The initial five year plan for local use of Revenue Sharing money was drawn up by a task force consisting of Department Heads of the City of Albuquerque. Groups, organizations and other constituents had input to the decision-making process only to the extent that they submitted requests for Revenue Sharing assistance. However, we conducted a telephone survey, held two public meetings, and notified interested parties through the press. These efforts generated about $145 million worth of request for about $30 million in available funds. The actual choices that were made however did not include these other non-City groups. As of July 1, 1974, Albuquerque's new Mayor/Council form of government will be reviewing all City commitments including the basic five year Revenue Sharing Plan. It is anticipated that the new districted Councillors and the Mayor will have significant input into the future commitments made from Revenue Sharings Funds.

Question No. 4: The City of Albuquerque has no complaints about the administration, procedures, or uses permitted. In fact the opposite is the case. We feel that this program is considerably advanced in terms of local effort expended to achieve substantial benefits. The flexibility of use of Revenue Sharing Funds is considerable and appreciated at the local level.

Question No. 5: To date we have not discovered uses for Revenue Sharing Funds which are prohibited by the legislation. There have been, however, a couple of instances where the issue of local match from Revenue Sharing Funds would have been desirable in the areas of Crime Prevention and Emergency Medical Services.

GRANT-IN-AID EXPERIENCE

Question No. 1: Compared to the grant-in-aid categorical programs (e.g. Model Cities, Urban Renewal, Neighborhood Development, Comprehensive Manpower Programs, LEAA Grants, Transportation Grants), the Revenue Sharing Program promotes a substantially greater *proportion* of funds for *direct impact* on problem areas. This is primarily due to lower administrative costs. The amount of Revenue Sharing available at this time would not adequately replace the level of effort in categorical programs, however. In the City of Albuquerque, Revenue Sharing currently represents about one-third of total Federal dollars being spent. The bulk of Federal money in Albuquerque is also badly needed in such areas as the ones mentioned above.

Therefore in terms of effectiveness, we can fairly state that Revenue Sharing is easier to administer but grants-in-aid play a substantial and larger role in meeting local demands.

Question No. 2: Revenue Sharing does require fewer administrative employees than grant-in-aid programs. The major reasons for this area:

a. Revenue Sharing Funds must be spent in accordance with the laws and procedures applicable to all other City revenues.

b. Revenue Sharing requires two simple and short reports generated from regular city record keeping practices as compared to a complicated application-implementation-operation-evaluation reporting package generally required by grant-in-aid programs.

c. The number of employees required to generate reports for grant-in-aid programs is obviously much higher than the requirements for Revenue Sharing Programs.

Question No. 3: As explained in Question No. 2, the overhead expenses related to Revenue Sharing would be considerably *less* than the overhead expenses for grant-in-aid programs.

Question No. 4: Primarily because of the differing paper requirements and the additional administrative personnel, a grant-in-aid program generally takes considerably more time and effort to administer. Revenue Sharing Programs generally make use of existing administrative organizations.

Question No. 5: As alluded to Question No. 2 above the more complicated grants-in-aid procedures often delay a local expenditure until Federal officials are satisfied that all implementation procedures have been met. The availability of Revenue Sharing funds from a local bank is quite another situation and considerably faster. Besides being readily available, the Revenue Sharing Funds can also be earning interest which increases their local use potential.

Question No. 6: The issue of local tax incentive as provided by a Revenue Sharing allocation formula is of special concern to the new Mayor Council government at this time. The formula basically rewards greater local tax effort with a greater share of Revenue Sharing funds. As Mayor of the City of Albuquerque I would appreciate more clarification about the role of tax monies collected by state government and distributed to local government. These taxes include the sales tax, gasoline tax, cigarette tax, and the motor vehicle tax. It is important to Albuquerque citizens to be able to clearly understand why these taxes that come out of their pockets and are spent locally (even though channeled through the State), do not count toward a greater proportion of Revenue Sharing dollars for local use.

Another issue of concern locally is a "hold harmless provision." As the legislation currently stands, we in Albuquerque are tied to every other taxing jurisdiction in the United States. Thus, it is conceivable (and it does happen to some cities) that our annual allocation could decrease. This would result in a reduction of local services if Revenue Sharing dollars could not be replaced (a very likely event). Therefore we would request some form of guarantee that our Revenue Sharing planning efforts can be fulfilled without a yearly apprehension about possible reductions in the face of inflationary pressures.

I hope these comments are useful in your presentation to the Intergovernmental Relations Subcommittee of the United States Senate. We thank you for your efforts to obtain local input for these important hearings.

Thank you for your continuing interest in the basic problems of local government.

Sincerely,

HARRY E. KINNEY,
Mayor.

EXHIBIT 4

QUESTIONNAIRE FOR REVENUE SHARING

1. Do you believe that Revenue Sharing should be continued as a federal program or cease to exist?

Wholeheartedly believe Revenue sharing should be continued as a federal program, but modify guidelines for expending the monies not to be so restrictive.

2. For what purposes have you been using your Revenue Sharing funds? (Please use additional space to answer if necessary.)

For partially funding the Pueblo's Law & Order, consisting of 2 patrolmen, 1 Tribal Judge. Also to alleviate other Tribal Govt expenses.

3. Who and how do you decide where Revenue Sharing monies will be used? Are groups, organizations and other constituents given a voice in the decision process?

Revenue Sharing monies should be administered by the Governor of the Pueblo with provision that expenditures for major proportions be authorized by the Pueblo Council.

4. Do you have any complaints about the administration, procedures, or uses permitted?

Only on the restriction for purchase of heavy equipment. The Pueblo is in dire need of Irrigation Ditch digging equipment.

5. Have you wished to use your Revenue Sharing funds for purposes that you discovered were prohibited by the federal Revenue Sharing legislation? What programs?

Due to high delinquency of our youth which in turn has resulted in high vandalism. In order to alleviate this situation would recommend Revenue Sharing monies be authorized to build recreational facilities for our youth.

FOR THOSE WITH GRANT-IN-AID EXPERIENCE

1. In your judgment is Revenue Sharing an effective program compared to the Grant-In-Aid, categorical program?

Yes.

2. Does Revenue Sharing require fewer administration employees than the Grant-In-Aid program?

Revenue Sharing at San Juan Pueblo has not required special administrative employees. We have been able to administer Revenue Sharing from existing Pueblo Govt. Staff at no additional cost.

3. How would you compare overhead expenses of Revenue Sharing compared to Grants-In-Air?

See above.

4. How would you compare the time and effort it takes to administer a Grants-In-Aid program compared to the Revenue Sharing program?

Favorable.

5. How would you compare the time elapsed between appropriation of Revenue Sharing funds to time of actual use by you? Is this time-frame faster than or slower than using Grants-In-Aid?

Would favor funds made available for the entire amount at beginning of Fiscal Year.

6. Please add here any comments you wish about Revenue Sharing and the Grants-in-Aid concept not covered in the above questions.

For Revenue Sharing versus Grant-In-Aid concept.

ED CATO,
San Juan Pueblo Governor.

A LIVING MEMORIAL TO PEACE

Mr. CRANSTON. Mr. President, I am pleased to call to the attention of this body an event of great significance in the city of Los Angeles and for those who hold the performing arts in esteem.

On November 10 the Los Angeles Music Center will observe its 10th anniversary, an event that will be marked by a special concert of the Los Angeles Philharmonic Orchestra conducted by the world-renowned Zubin Mehta.

It was this great musician who 10 years ago, on December 6, 1964, conducted the first performance at the music center, a complex of three beautiful theaters at the summit of the civic center in downtown Los Angeles.

The music center was conceived, financed and built by private citizens of Los Angeles, from many thousands of donations.

But the one person who made it all possible, whose driving dream for this project spans almost 20 years of continuing effort, is Dorothy Buffum Chandler, the wife of Norman Chandler.

Her description of the music center, written 10 years ago for the dedication of this monumental project, gives a clue to the vision and to the strength of purpose of Dorothy Buffum Chandler in bringing into being this fine center for the performing arts. She said:

The Music Center is many things to many people. To some it represents a magnificent addition to our civic center, a bright new jewel in the diadem of a great city. To others it heralds a brilliant era in the cultural life of the west with facilities for presentation of the performing arts unexcelled anywhere in the world. To others it is especially significant as a place where exciting new talent—in music, drama, dance—will find expression and fulfillment. It is these things and more. To me the Music Center is important as a challenge—a challenge to the intelligence, imagination and taste of our children and their children and, hopefully, to their children. In a world more immediately imperiled by mediocrity than by intercontinental missiles, the Music Center will stand forever as a symbol of what creative man can accomplish when he sets high his standards and his vision far beyond our present horizons.

Mr. President, Los Angeles today has one of the finest music and theater centers in the world thanks to Dorothy Buffum Chandler and the hundreds of dedicated citizens and artists who joined with her on countless occasions to work for, plan and finance the music center.

The center is dedicated as "A Living Memorial to Peace."

More than that, it is a living memorial to those who dreamed very large dreams, indeed, and who knew how to translate a vision into reality.

I salute Dorothy Buffum Chandler for the leadership, the courage and the dedication that made the music center a reality.

I salute those thousands of Los Angelenos who joined with Mrs. Chandler in supporting the project.

And I salute the hundreds of thousands of theater-goers and music lovers who have proved through their attendance and their support that the theater of the mind, the creative genius of man and woman, and the inner spirit that lights the artist are indeed alive and well in Los Angeles.

To the music center and its patrons;

To Dorothy Buffum Chandler and her friends;

To Los Angeles;

Congratulations, and many long years of great success.

THE UNWISE HAIG APPOINTMENT

Mr. PROXMIRE. Mr. President, there is a very thoughtful article in today's Washington Post by J. Robert Schaetzel, former Deputy Assistant Secretary of State and U.S. Ambassador to the European Communities.

Mr. Schaetzel is critical of the President's appointment of Gen. Alexander Haig to be Supreme Allied Commander Europe on two counts. First he notes that the quality of previous SACEUR's was not notable compared to General Haig's lack of command experience. The second is that the diplomatic service has once again become the dumping ground for political leftovers of former administrations.

The American practice, he states, regarding diplomatic assignment is bizarre and in stark contrast with the procedure of both ally and foreign adversary.

Whether or not the Senate will ever get to consider the case Mr. Schaetzel makes is problematic at best. If the Armed Services Committee would call hearings on the Haig appointment, then good sense and Senate jurisdiction would be served.

I hope the Senate will not allow this opportunity to slip by and establish the precedent that where there is controversy we should take the easy way out.

Mr. President I ask unanimous consent that the Schaetzel analysis be printed in the RECORD:

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE HAIG APPOINTMENT

(By J. Robert Schaetzel)

The appointment of General Alexander M. Haig Jr. to be NATO's Supreme Allied Commander (SACEUR) is offensive on two counts. The first concerns the appointment itself. The second concerns what it reveals about Washington's approach to high-level diplomatic appointments. If the full implications of the Haig appointment can be appreciated, especially at this time of intensive awareness of governmental deficiencies, they may serve as the catalyst to produce the long-needed reform in the way we go about this aspect of our international affairs.

The quality of the previous SACEURs was notable—Eisenhower, Ridgeway, Grunther, Norsad, Lemnitzer, Goodpaster—and only emphasizes Haig's weakness: lack of command experience, innocence of Alliance affairs, the taint of Watergate. It is one more episode in the dreary history of Americans being assigned abroad for every reason but relevant knowledge or experience. Without reservation we send an owner of parking lots to The Hague, a publisher of "TV Guide" to London. This complaint should not be construed as a plea for ambassadorial positions to be the exclusive preserve of the Foreign Service. Left to its own devices the career service is entirely capable of naming incompetents who are the match of those from private life. And the Foreign Service would be hard-pressed to equal men of the quality of David Bruce or Edwin Reischauer.

We are accustomed to the political use of comfortable ambassadorial assignments for purposes of canceling a debt or resolving an awkward party problem. The President and the Republican leaders are repaying an obligation to Haig. He had sensitively gone out of his way to advise and assist Ford as Vice President, a decency to be rewarded. The conservative Republican leaders felt indebted to Haig for his role in Nixon's resignation. Hence, a place for him had to be found. Certainly the military were not about to accept back gracefully the 1969 colonel turned instant four-star general (Rtd.). We have had a spate of these cases: the fight against inflation meant that Rush had to be eased out of town and thus to Paris; Bush, of all things, to Peking; and, where political obligations are obscure, Flanigan, to aid the Spanish transition.

An essential adjunct to this peculiar, self-serving practice is American indifference to foreign sensibilities or foreigners' resentment of the individuals imposed upon them. The fact that our allies have been discreet should not be interpreted as contentment with the Haig nomination. For years Americans and Europeans devoted to NATO affairs have sought to make SACEUR an "Alliance" commander, not merely an American commander in Europe to take charge of European mercenaries in time of military crisis. The Greek-Turkish confrontation and the pressure to reduce American troops abroad make the Alliance connotation more urgent. In justification the administration responds, "But the Europeans did not protest; they welcomed the Haig appointment." For good reason. Our allies have discovered that, if frustrated in such matters, Washington can be exceedingly nasty. Overwhelming European reservations to Haig were a piece of cake. The trick was first to line up the Germans. They have the greatest stake in NATO—geographic vulnerability, plus the fact that they make the principal contribution of men and money and are most threatened by the prospect of American troop withdrawal. Bonn's acquiescence collapsed any chance of organized European resistance to Haig. Grudging, unanimous agreement was achieved, but at a price. The episode adds credibility to those Europeans who see in the Alliance not evidence of an Atlantic partnership, but rather of an American abuse of power.

One should be able to assume that the State Department, in exercising its responsibilities for foreign relations, with respect to senior appointments overseas, would insist on competent candidates and, conversely, would protest unqualified nominees where foreign displeasure could be anticipated. In fact, Kissinger has yet to spend any of his fund of political capital to block bad appointments. As he places no stock in the institutions of foreign affairs or, specifically, in the utility of overseas missions, he would see no reason for concern over European unease at the Haig appointment. If the Secretary of State cares little about the foreign reaction, no one can expect the White House to take seriously adverse Allied opinion.

I have lost the capacity for surprise, if not for embarrassment, at the callousness with which the government treats its own people. Without a word General Goodpaster is thrown from the end of the sleigh. Years of distinguished public service, many of them as aide to Eisenhower, in which he earned the admiration of the allies and the Congress stimulated only proforum White House acknowledgement of our national debt to this extraordinary officer. This all too typical, graceless neglect says unpleasant things to foreigners about the American government's values.

Vietnam, Cambodia and now Chile have provoked congressional huffing and puffing about Executive Branch license in foreign affairs. Yet in the area of presidential appointment, where the Senate's collateral, constitutional prerogatives, are explicit, to look for content in the exercise of "advice and consent" is like waiting for Godot. Legislative posturing and condemnation of Executive excesses are easier than perusing efforts to excuse responsibility. The Haig appointment, as several senators have pointed out, obliges the Congress to examine critical questions: the separation of the military from civilian activity, the matter of qualifications, the question of whether Haig would advance American interests abroad. But then, senatorial laxity should come as no surprise when one recalls the docile acceptance of Firestone for Belgium, for example, or Farkas for Luxembourg.

The American practice regarding diplomatic assignment is bizarre and in stark contrast with the procedure of both ally and foreign adversary. Others choose their envoys from professional diplomatic ranks, only occasionally bending this practice to name an ex-minister or distinguished parliamentarian. If we are disinclined to take these overseas missions seriously, then why accept the expense as well as the embarrassment to other countries which our practice engenders?

If the Foreign Relations Committee were interested in fulfilling the Senate's constitutional responsibilities, content could be put into those words "advice and consent." With a procedure derived from the American Bar Association's informal appraisal of proposed nominations to the judiciary, the Committee could establish a senior, nonpartisan panel of private experts to review presidential nominations prior to consideration by the Committee. The panel would be expected to advise the Committee whether the candidates met minimum qualifications for confirmation. The first act of such a panel could be to develop in cooperation with the committee the criteria to be used in judging the nominations. The mere establishment of such a procedure would have an ennobling effect on both the Senate and the President, constraining the President from the habit of employing diplomacy as the easy way of solving irksome political personnel problems.

WEEK OF CONCERN FOR WORLD HUNGER

Mr. PERCY. Mr. President, this is the Week of Concern for World Hunger, sponsored by the World Hunger Action Coalition, which represents more than 70 organizations. In addition to the national observance, 13 States and 19 cities have also proclaimed September 22–29, 1974, to be a Week of Concern locally.

All Americans are well aware of the food and nutrition difficulties we face here at home. We have recurring shortages of meat and some fruits and vegetables. We have had substantial grain crop losses that will affect our eating habits for months to come. We are faced with skyrocketing prices for all kinds of food, with little relief in sight. Yet these problems are minuscule when compared to the very real threat of starvation and death from malnutrition-related diseases faced by millions of our fellow human beings.

The Week of Concern for World Hunger seeks to achieve three major goals: One, to bring to the attention of all Americans the fact that millions of people in Africa and Asia face imminent death from lack of food; two, to convince all Americans of our moral responsibility to share with the people of those nations who have so much less; and, three, to encourage widespread, grassroot support

for the activities and goals of the World Food Conference to be held in Rome in November.

Mr. President, I believe the Week of Concern for World Hunger is achieving these goals, and the World Hunger Action Coalition, whose advisory commission I cochair with Gov. Milton J. Shapp of Pennsylvania, is to be commended for the fine organizational work they have provided. I wish also to commend my home State of Illinois for designating this week as the Week of Concern for World Hunger in Illinois.

I ask unanimous consent that Gov. Dan Walker's proclamation be printed in the RECORD.

There being no objection, the proclamation was ordered to be printed in the RECORD, as follows:

PROCLAMATION

Although hunger is a problem that knows no political or geographical boundaries, its victims are usually the poor and vulnerable. For those of us who live in the developed nations, the worldwide shortages and rising prices represent an inconvenience, certainly, but for nearly a billion people in the poorest countries of the world, there is more than discomfort; there is the deadly threat of starvation.

Solutions clearly are needed for not only the short-range problem of hunger, but also the longer-range one of improving agricultural production in the developing countries. With this in mind, several organizations in the United States which concentrate or the problems of international development and conduct programs to feed the hungry abroad have formed a World Hunger Action Coalition to stimulate public concern about the problem of hunger and to focus attention on the United Nations-sponsored World Food Conference in Rome in November. The conference has been called on an urgent basis to deal with this new and widespread threat. The World Hunger Action Coalition hopes to send a delegation to the World Food Conference to discuss the role of our agriculturally rich land in the development of food programs for the world. The Coalition's campaign for public concern will culminate in their National Week of Concern for World Hunger, September 29.

Since the world's approach to the problems of food and famine are so important to this state which is the largest exporter of agricultural products in the nation and whose largest industry is agriculture, I, Dan Walker, Governor of the State of Illinois, designate September 22–29, 1974, Week of Concern for World Hunger in Illinois.

DISASTER IN HONDURAS

Mr. KENNEDY. Mr. President, a few days ago, one of the most destructive hurricanes of the century hit the people of Honduras—leaving behind a massive human tragedy, and an awesome trail of destruction and death.

The Honduras Government, disaster relief teams and journalists report that swirling floodwaters have cut off entire communities—destroying roads, severing communications, and preventing the much needed arrival of emergency relief supplies. Whole towns and villages have been swept away. The banana crop—the major source of foreign exchange—is all but destroyed. Clean water is scarce—and so is food. Disaster refugees number in the hundreds of thousands. Thousands of people have lost their lives—and the lives of thousands more are threatened by exposure, malnutrition, and disease.

The immediate and longer term effects of the hurricane are not fully known. But all sources confirm that a neighbor country has suffered great tragedy, and that emergency relief needs, let alone rehabilitation and reconstruction, are urgent and massive.

As chairman of the Subcommittee on Refugees, I rise today to express my deep personal sympathy and concern to the Government and people of Honduras—and to urge that the United Nations Disaster Relief Office—UNDRO—with the support of our own Government and others, spare no effort in helping to meet the humanitarian needs of the Honduran people.

AID officials have indicated that a number of initiatives are already underway by our Government. In addition to making disaster relief personnel and aircraft available, medical supplies, blankets, food, and water purifiers are being airlifted to the area. Some $350,000 has been allocated for Honduras relief, and private voluntary agencies are also giving their support to the relief efforts. The administration should be commended for its early response to the disaster in Honduras, and I am confident that the continuing American contribution to international relief efforts will fully reflect our traditional concern for people in need.

In conclusion, Mr. President, I would like to call to the attention of Senators amendment No. 1878 to the pending foreign assistance authorization bill. This disaster relief amendment—which I introduced on September 17 in behalf of myself and the senior Senator from Wyoming (Mr. MCGEE)—has several cosponsors, and provides some $120,000,000 for humanitarian purposes in Cyprus, Bangladesh, the drought region of Africa, and other potential areas of humanitarian need. Clearly, Honduras would benefit from the enactment of this amendment.

And I am extremely hopeful that, given the very urgent human needs in so many areas of the world, the amendment will be adopted by the Senate, and the foreign assistance legislation will be expedited toward enactment.

MEETING HEALTH MANPOWER NEEDS

Mr. MUSKIE. Mr. President, S. 3585, the Health Professions Educational Assistance Act of 1974, which was passed by the Senate this week, addresses among the most critical of our health problems: The lack of sufficient medical manpower, distributed adequately among all areas of the Nation, and equipped to serve all the health needs of our people. Medical manpower problems demand a firm response from the Federal Government, including financial support for health manpower training, and incentives for producing the health personnel we need most, located where the need is greatest.

Present physician manpower resources are beset with four acute problems: Geographical maldistribution, specialty maldistribution, a too-heavy reliance on foreign-trained physicians, and an uncoordinated system of licensing doctors—and dentists—to practice.

The problem of geographical maldistribution, for instance, is illustrated by the concentration of physicians in a few "doctor-rich" locations while rural areas and inner cities are underserved. In Maine the ratio of doctors to the civilian population is only three-fourths of the national average, and the ratio is even lower in some counties of my State. Geographical maldistribution is growing worse, with the physician-population ratio increasing almost four times as fast in "doctor-rich" areas as in "doctor-poor" areas.

The problem of "specialty maldistribution" has been marked by a disappearance of the family doctor—the general practitioner equipped to serve the normal health needs of the public. With more and more physicians choosing to practice specialized forms of medicine, the patient is often faced with the challenge of diagnosing himself before he can decide which doctor to see. Specialty maldistribution is increasing: Nationwide, the number of physicians in general practice has declined from 50 percent in 1949 to 36 percent in 1960, and to 22 percent in 1970; in Maine, the number of doctors in general practice declined by 11 percent from 1968 to 1972, from 282 to 251.

A third physician manpower problem is the increased reliance on foreign medical graduates, needed to make up for the inadequate capacity of domestic training facilities. Today, graduates of foreign medical schools make up one out of five physicians practicing in this country and one-third of all physicians in residence training programs, and receive about one-half of the new licenses granted annually to physicians in the United States. The vast majority of the foreign-trained physicians entering this country in 1972 came from developing countries, who themselves have acute medical manpower needs. And although many foreign trained physicians have received a good medical education, many others receive training inferior to that provided by domestic medical schools, with the result that citizens they serve may receive substandard care.

The fourth physician manpower problem is the variation in license requirements for physicians and dentists from State to State. Although almost all States now require a national examination for licensure, the standards for success or failure on the same test differ. And some States do not recognize physicians licensed elsewhere, restricting the entry of doctors. The varying licensure requirements are particularly important in the case of foreign medical graduates, who practice in some locations without fully meeting licensing requirements, and sometimes with inadequate command of English.

Mr. President, adequate medical manpower resources will be essential to the goal of giving every American access to high quality health care. To achieve that goal, the Federal commitment to strengthening health manpower resources must be firm and clear.

This week, the Senate considered sev-

eral legislative proposals designed to meet our health manpower needs. The basic legislative proposal before the Senate was the bill reported by the Labor and Public Welfare Committee as S. 3585. In its original form, that bill would not only have allocated substantial Federal funds for health manpower training, but would have also required the immediate implementation of a system of obligated service for all medical students, Federal standards for licensing and relicensing physicians and dentists, and Federal determination of the distribution of medical manpower training in various specialties. The obligated service provisions of the bill would have required each medical school receiving Federal assistance to assure that it would require entering students to contract with the Federal Government to serve for at least 2 years after graduation in medically underserved areas as designated by the Secretary of HEW. The bill would also have required the Secretary of HEW to establish minimum national standards to licensure of physicians and dentists, including provisions for relicensure—by meeting requirements other than written examinations—at least once every 6 years. These minimum national standards would have taken effect in 2 years in States whose standards did not meet or exceed those proposed by the Federal Government. Further, that bill would have established a system of national and regional councils to recommend limits on the number of training positions for physicians after graduation in each of the medical specialties, in order to insure that enough doctors would enter general family practice rather than entering specialties which already have sufficient manpower.

I had serious reservations, Mr. President, about establishing Federal control in this form over the health professions—particularly the requirement of Federal standards for licensure and relicensure of physicians and dentists, and the mandatory requirement that all students entering medical school be obligated to serve, after graduation, at the designation of the Federal Government. Although our medical manpower needs are serious, the case has not yet been made, in my judgment, for immediate implementation of those provisions.

When this measure came before the Senate earlier this week, two alternative substitute proposals for the original version of S. 3585 were proposed. One proposal, advanced by the Senator from Maryland, contained no provisions relating to licensure, relicensure, or specialty distribution, and instead of the mandatory obligated service provision would require medical schools to reserve at least 25 percent of their entering classes for students who made voluntary commitments to serve in areas with the most severe medical manpower needs. A second proposal, advanced by my distinguished colleague from Massachusetts (Mr. KENNEDY) would have retained the funding structure of S. 3585 as originally reported, but limited the effect of the bill to only 2 years, and deferred the implementation of the system of obligated service, national licensure, and specialty training limits until 1980. Under that substitute, the existing system of voluntary programs would have been given a renewed opportunity to solve health manpower problems before the more severe federally controlled solution to them would have been implemented. I supported the second alternative because in my judgment it best expressed a strong commitment to achieving significant improvements in health manpower. Before final Senate action, however, that alternative was disapproved, in favor of the substitute proposed by Senator BEALL.

Despite disagreements about the specific form of future Federal action to support improved health manpower, I believe the Senate's final action yesterday in passing S. 3585 as amended did demonstrate broad consensus on the importance of that goal. I hope that House action on a comparable measure can be swift, so our commitment can be written into law this year.

THE CAMPAIGN REFORM BILL

Mr. TAFT. Mr. President, next week the conferees will reconvene in an attempt to put the final touches on comprehensive campaign reform legislation. It is no exaggeration to say that this legislation will affect in fundamental ways the workings of our system of government. While there are important positive provisions in both the House and the Senate bills, there are also serious problems remaining to be resolved. I believe it is important that these problems be highlighted at this time.

It is obvious that in the aftermath of Watergate, basic reforms in campaign financing are essential so that our citizens will be certain that their Government is not being operated to satisfy the interests of a few large contributors, rather than the Nation as a whole.

In my judgment, the most important step we can take in this direction is to place strict limitations on the amounts which individuals, or organizations in particular, can contribute to any single candidate. Unfortunately, it appears that the conferees are leaning toward the House provisions in this regard. While the House provisions are certainly an improvement over present law, they still allow unduly large organizational contributions of up to $10,000 per candidate for the primary and general elections combined.

This amount of money could be extremely significant, for House campaigns in particular. To the extent the conference committee sets low overall spending ceilings on House campaigns, which seems likely to occur, $10,000 would become even more important. Furthermore, the maximum contribution amount for these "special interest" organizations, which identify themselves so completely with specific legislative positions and votes, would be five times the amount which individuals can contribute.

The Senate bill instead allows special interest groups to give twice as much as individuals and a total amount of $6,000 for the primary and general elections. This provision is not ideal, but it goes much further than the House bill toward eliminating big money-related special interest influences from politics.

In view of the essentiality of low contributions limits on individuals and organizations, it is crucial that these limits be free of loopholes. In particular, wealthy individuals and affiliated special interest groups must be prohibited from proliferating their political committees to circumvent the contribution limitations. Under present law, some of these groups control up to 20 contributing committees. Although this problem is mentioned in the House committee report, it is not adequately remedied by either the House or the Senate bill. The conferees should definitely address themselves to it.

Low contributions limits in themselves will exacerbate the task of raising enough campaign funds for both incumbent and challenger to make their views known to the public. This raises the unresolved issue of public financing of congressional campaigns. Unfortunately, the conference bills are the extremes. The House bill provides no public financing, while the Senate bill provides full public financing for general elections and public matching of small private contributions, once a "threshold amount" of private funds has been raised, for primary elections. The proposal which some of my colleagues and I offered on the Senate floor would have provided partial public financing, under a matching system, for congressional general election campaigns. This approach would have alleviated to a significant extent the problem of raising adequate campaign funds. At the same time it would have avoided the increased costs, mushrooming of wasteful campaign expenditures at taxpayers' expense and unnecessary elimination of a meaningful role for grassroots fundraising involving small contributors, which are likely to result from full public financing. That proposal was defeated by a key vote of 46 to 45.

It now appears that rather than adopt such an approach, the conferees will take one of the approaches in the bills before them. If that is the case, it may be better to accept spending limit reforms without public financing and to add public financing later if necessary. The Senate conferees could expect to extract other concessions for taking this approach. Furthermore, at least this would give us the opportunity of observing how full public financing for the general election and partial public financing for the primary election work in the 1976 Presidential race.

A bill which drops all public financing for Congress but imposes the strict contribution limitations could create problems for challengers, who naturally have a much rougher time raising campaign funds than incumbents. A much more serious problem in this regard, however, may be the legislation's limits on overall campaign spending. Particularly in the case of the House bill's proposed limit on spending for House elections of $60,000 per campaign, with important exemptions including fundraising costs, I fear that these spending ceilings could more aptly be described as "incumbent insurance" than reform. In 1972, House

incumbents won well over 95 percent of the time, and the 12 challengers who did beat incumbents averaged expenditures of $125,000.

There is more than a question of equity involved here. Congress can hardly expect greater confidence from the public if a legislative response to Watergate amounts to increasing its own job security. The conferees should therefore take the higher ceilings on overall campaign spending.

Another danger point in the conference which could exacerbate the challenger problem greatly is the House bill's treatment of National and State party committees. By limiting contributions from these committees to $5,000, the House bill would severely curtail these committees' activities. The $5,000 limitation would be particularly absurd in Presidential races and senatorial races in large States.

Political parties are the most broadly based groups involved intricately in the political process. They have a great potential for serving as a focus and rallying point for the public interest on various issues, allowing individuals to become more involved in the workings of our system and generally contributing to a stable and sound American Government. By carrying out the nominating process, they also serve an important and unique function in our political system. It would be nonsensical to adopt legislation which dictates that they have no more financial standing in the system than the Associated Lumbermen, the Amalgamated Bricklayers, or any other special interest group. As I indicated, the strict limits on the financial role of party committees would also contribute in an important way to incumbents' advantage since political parties are the organizations best able to marshall the resources and funds needed to beat well-known incumbents.

Rather than the House provision, the conferees should accept the Senate provision allowing party committees to expend $10,000 for each candidate's House campaign and $20,000 or 2 cents per voter, whichever is greater, in both senatorial and Presidential races. This provision would allow the parties to play a stronger role in the electoral process, while at the same time placing ample limitations upon their activities.

The conferees should keep in mind continually that regardless of the effects I have mentioned of all these provisions on challengers, incumbents will continue to have formidable advantages over them. These advantages include staff allowances for ongoing legislative work, the franking privilege and ready access to the media. The franking privilege allowing certain free mailing, in particular, is a tremendous advantage even if used only legitimately. Unfortunately, in many instances of late, the uses to which that privilege has been employed have with justification come under serious question. The conferees should certainly accept the Senate's limited measures to curtail use of the franking privilege for campaign purposes.

The primary focus of the conferees should be to protect our democratic processes from abuse. The purpose of campaign reform legislation is to protect the freedom and open access to our electoral systems for all citizens. We must be extremely careful to avoid legislating ourselves into lifetime jobs by tilting the reform into a job insurance plan for incumbents. The people will not countenance such an assault upon the system.

Lastly, but of extreme importance, is the question of the enforcement provisions. Our campaign reform efforts will be a sham if the new laws do not provide adequately for impartial and diligent enforcement efforts.

In that connection, I support the Senate's provision allowing an independent Federal Elections Commission to probe and prosecute criminal violations of campaign laws without going through the Department of Justice. Unfortunately, the Department of Justice's past record in this field is questionable. Since the enactment of the Federal Corrupt Practices Act in 1925, there has never been a prosecution under these laws of a sitting Member of Congress. Even if one explains away that record, the notorious lack of priority and manpower which the Department gave to the enforcement of the Federal Elections Campaign Act for the 1972 elections was clearly disappointing.

This situation must definitely be changed. Endowing the independent Commission with the necessary strong enforcement powers would seem to be the best way to do so.

In the interest of both enforcement and promotion of political education by the campaign finance disclosure provisions as intended, it is important that unnecessary complexity in these and other provisions be eliminated. Unnecessary complexity in the bill could also lead to many unintended violations and even discourage people from entering or remaining in politics.

The conferees should review carefully the rather extensive list of exemptions from the definition of "expenditure" and of "contribution" in the House bill, with these thoughts in mind. Rather than exemptions from spending limits and disclosure provisions which may be well-intended but create complications and could be abused, it would be better to move in the direction of all-inclusive spending limits and disclosure provisions. Such a movement may necessitate a slight upward adjustment in spending ceilings.

The campaign reform bill is potentially the most positive legislative result of Watergate. I am hopeful that these remaining problems can be resolved responsibly, so that the 93d Congress can make that claim as unequivocally as possible.

CALIFORNIA'S LEGISLATURE ACTS FOR THE AGING

Mr. TUNNEY. Mr. President, a recent issue of Perspective on Aging, the publication of the National Council on the Aging, contained an article entitled "California's Legislature Acts for the Aging" by Mrs. Janet J. Levy. Mrs. Levy is the highly respected consultant to the California Joint Legislative Committee on Aging, and previously had served as the State's first commissioner on aging. Mrs. Levy's article chronicles the excellent work done in California and the joint committee. As a member of the Senate Special Committee on Aging, such issues are of great interest to me, and I am particularly proud to share with you the fine record that has been and is continually being established in California.

Mr. President, at this time I ask unanimous consent to print this article in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

CALIFORNIA'S LEGISLATURE ACTS FOR THE AGING

(By Janet J. Levy)

California's concern for its older residents goes back to the early 1950s, when the first Governor's Conference on Aging was held in that state. Over the years, however, leadership in the expression of this concern had trouble finding a base. Today such base is firmly established in the state legislature's Joint Committee on Aging.

The Committee's antecedents go back to 1955 when, acting on one of the recommendations which emerged from that first Governor's conference, the state legislature created a Citizens Advisory Committee on Aging composed of eight citizen members and four representatives from the legislature's two houses, the Assembly and the Senate.

The following ten years were marked by considerable progress and included the development of such programs and services as the Older Worker Specialist employment service, Protective Services for Older Adults, an annual cost-of-living increase in assistance grants for the aging, and an appropriation for a statewide community services project for older persons. With the enactment in 1965 of the Older Americans Act (OAA), the Citizens Advisory Committee was terminated and replaced by the California Commission on Aging, whose responsibilities included approval and supervision of the OAA's Title III Community Service projects.

With that additional load to carry, and with a comparatively limited staff to serve California's 58 counties, the Commission necessarily focused virtually all its efforts on maintaining community services and acting as the liaison among federal, state, and local resources. It could give little or no attention to studying the problems confronting older Americans in the state and recommending appropriate legislative action, with the result that the momentum of the preceding years began to ebb away.

BREAKTHROUGH

Then in 1971 came the adoption of a resolution drafted by Assemblyman Leo McCarthy of San Francisco and Senator Joseph Kennick of Long Beach (both of whom had formerly been Commission on Aging members) creating the Joint Committee on Aging. As part of its mandate to study, analyze, and support legislation related to the economic, health, and social needs of older adults, the Committee was charged with taking appropriate action as regards the operation, effect, administration, enforcement, and revision of all state laws bearing on the welfare of the aged.

Membership of the Committee is composed of three members from each house of the legislature. In addition to Assemblyman McCarthy, as the chairman, and Senator Kennick, they are Assemblymen Bob Moretti of Van Nuys and Frank Murphy of Santa Cruz, and Senators Peter H. Behr of Marin

County (as vice chairman) and George Zenovich of Fresno.

In that first year of the Joint Committee's work, Chairman McCarthy introduced a wide-ranging series of legislative measures on behalf of the elderly, with other Committee members as coauthors. Included in the package were a bill revising the formula for tax exemption under the state's Senior Citizens Property Tax Assistance Law so as to allow a greater exemption for those with annual household incomes of less than $5,800; another bill appropriating $400,000 to be used by members of ethnic or economically disadvantaged aging groups to meet the matching ten percent called for under the OAA's Title VII nutrition grants program; and a bill raising the state needs level for all adult aid recipients by $12.00 toward allowing those eligible to receive a 20 percent Social Security increase. Each of these bills was quickly enacted into law.

And there were other actions as well during that first year, including a resolution addressed first, to the increasing statewide need for training resources for those working with the elderly, and second to the growing demand for continuing education for older men and women. As adopted by the legislature, this resolution required the University of California system, the State Universities and Colleges system, and the Community College system to assess their curriculums in the field of gerontology and to formulate recommendations for future action. In a related development, these three groups of postsecondary institutions also were involved in a "Higher Education for the Aging" project made possible by a grant under the OAA's Title III. Although only tax-supported institutions were covered by the resolution mandate, the Andrus Gerontology Center at the private University of Southern California is represented on the project steering committee to assure participation of the nonpublic universities and colleges in comprehensive planning.

THE PACE QUICKENS

In its second year, 1973, the Joint Committee sponsored a legislative package that Chairman McCarthy hoped "would revolutionize California's care of its elderly citizens." Two primary objectives lay behind this legislation—to correct the intolerable conditions borne by many of the 80,000 elderly Californians confined to nursing homes and other extended care facilities, and to provide services aimed at helping older persons remain in their own familiar settings as long as possible. As a preliminary to introducing this legislation the Joint Committee held a series of five hearings in the state's largest cities, on the subject of Nursing Home and Alternative Care. The witnesses included consumers (usually represented by a family member or friend), providers (either the administrator, manager, or board member of a facility), and officials of appropriate local agencies (Public Health, Social Welfare, or Health Care Services).

In addition to citing the major issues and problems relating to nursing home facilities, the sessions included discussions of specific potential ways of dealing with these issues and problems and of improving the quality of care generally. In place after place the Committee heard complaints about high turnover of staff, primarily because many aides were paid less than legal minimum wages; the lack of on-the-job training opportunities for the staff; low reimbursement for Medi-Cal (Medicaid) patients, resulting in dietary deficiencies; infrequent changing of linen; lack of activity programs; and insufficient visits by physicians.

Drawing on these public hearings, Chairman McCarthy and the Committee members coauthored a package of six bills designed to improve the quality of nursing home care while concomitantly providing an array of in-home services which would so far as possible allow older persons to remain in their own houses if they preferred. Toward protecting nursing home patients, the legislation included penalties for violations of standards pertaining to safety and health; set up more rigid licensing procedures; and increased the reimbursement rates for Medi-Cal patients in nursing homes (with a sliding scale of reimbursements keyed to the quality of care received and the amount of services rendered). The bills in addition called for the provision of comprehensive supportive services at home through Medi-Cal and rehabilitation funding, and a demonstration project to provide public health nurses at senior centers, public and low-cost housing facilities, and other locations where older persons congregate.

A CONTINUING EFFORT

The citation, licensing, and public health nurse bills have now been signed into law, but the reimbursement raise, the sliding scale formula, and the provisions for in-home supportive services were vetoed by the Governor. Chairman McCarthy insists that these issues are not dead, however, and that legislation covering them will be reintroduced.

Meanwhile the Joint Committee on Aging is going forward on a number of fronts. Its most visible efforts have to do with holding public hearings, publishing summaries of pending and final state legislative action, and conferring with local, state, and federal officials. In addition, however, Committee members and the consultant staff participate in many conferences, workshops, and special activities sponsored by senior organizations, educational institutions, churches, and public and voluntary agencies. Through such involvement and exposure, the Committee has established channels of communication and working relationships which Chairman McCarthy describes as essential to the Committee's success.

As Chairman McCarthy and his colleagues see it, one of the most important functions of a Committee such as theirs is to serve as a communications resource—for other members of the legislature and for community groups, individuals, and agencies seeking to deal with some extremely complex issues. Similarly, the Committee serves as a pipeline to and from the Federal government, and its members have formed a productive working relationship with the U.S. Senate's Special Committee on Aging.

Progressive legislation for the elderly does not just happen. From concept to enactment, the necessary ingredient is expert leadership, and that is what the California legislature's Joint Committee on Aging is seeking to provide.

MEALS ON WHEELS WEEK

Mr. PERCY. Mr. President, I am very pleased that the Senate has approved Senate Resolution 409, designating this week as Meals on Wheels Week. The first National Conference of Meals on Wheels "kitchens" is taking place here in Washington this week, so this Senate recognition is most appropriate.

Meals on wheels is a nonprofit religious and civic-operated program to deliver nutritionally balanced hot and cold meals to the homebound elderly and convalescent. There is currently no national organization of the private meals on wheels kitchens. The purposes of the first national conference, to which representatives from each State and from Canada have been invited, is to promote nutrition for the elderly and to establish more kitchens throughout North America. The conference is hosted by the Washington, D.C., Meals on Wheels Confederation, representing 26 kitchens in the Washington area.

I hope this first national conference will be a most successful one. Certainly the knowledge and experiences gained by local kitchens should be shared with other groups so that meals on wheels programs everywhere can expand and improve. The hundreds of thousands of elderly and convalescent people who benefit from meals on wheels have much to gain from such a sharing of views.

I wish to commend each of the meals on wheels kitchens across the country for their fine contributions to the health and happiness of so many people. The Washington, D.C., Meals on Wheels Confederation is to be especially congratulated for its fine work in sponsoring and organizing the conference. I also wish at this time to welcome to Washington Mrs. Cornelia Jerigan who is here representing Illinois.

Mr. President, my support for and interest in the meals on wheels program is well-known. I regret I cannot greet all of the representatives personally and that I will not be able to participate personally in the luncheon tomorrow honoring both meals on wheels volunteers and recipients. I know the occassion will be an exciting and happy one.

I wish all of the kitchens represented at the First National Conference of Meals on Wheels successful and expanded programs in the coming year.

THE GOLDEN ANNIVERSARY OF NORTH SCRANTON JUNIOR HIGH SCHOOL

Mr. BIDEN. Mr. President, today I am submitting for printing in the RECORD a resolution written by the North Scranton, Pa., Junior High School to commemorate its "Golden Jubilee," whose motto is "We're Making It Happen."

I take great pleasure in calling this anniversary to the attention of the Senate. The school, amid troubled times for our secondary educational system, is an example of what teamwork between school and community can accomplish. As a native of Scranton, I know about the tremendous accomplishment of this school. Many graduates are distinguishing themselves in their adult lives.

Mr. President, I ask unanimous consent that the resolution I referred to be printed in the RECORD.

There being no objection, the resolution was ordered to be printed in the RECORD, as follows:

THE GOLDEN ANNIVERSARY OF NORTH SCRANTON, PA., JUNIOR HIGH SCHOOL

Whereas, the North Scranton Junior High School has been endowed during the past half century with an illustrious administrative and instruction staff; and

Whereas, the students of this educational institution have always conducted themselves in an exemplary manner, ever mindful that they are the best representatives of the high ideals instilled in them by their mentors; and

Whereas, the alumni of this center of learning have often distinguished themselves in the public and private sectors of their communities, thus bringing renown to their Alma Mater; and

Whereas, the elected officials of the Scranton City School District have always viewed

with justifiable pleasure and pride this institution's exceptional secondary education program which is specifically designed to serve the varied social, emotional and physical needs of the emerging adolescents in the North Scranton sector of their city; and

Whereas, on the occasion of the Golden Jubilee of the North Scranton Junior High School, the entire city of Scranton now joins with the faculty, student body, and inumerable numbers of its alumni, in celebration and wishing them even greater success and happiness for the future; now therefore be it

Resolved that the official motto of this anniversary program shall be: "We're Making It Happen!"

THE DEATH OF THEODORE McKELDIN

Mr. BROOKE. Mr. President, Cicero once wrote that "A man of courage is also full of faith." So it was with Theodore McKeldin, whose recent passing has taken from the American scene a man of fearless integrity and unwavering faith—qualities which gave to his public and private life alike a characteristic courage. It was my privilege to count him as a personal friend of many years standing, and the memory of that friendship will continue to be a source of inspiration.

Theodore McKeldin's career has been noted and praised across the land since his death in Baltimore last month at the age of 73. As mayor of that city and as Governor of Maryland he served the people of his city and State faithfully and well for nearly two decades. And these two decades were turbulent times for our Nation.

Governor McKeldin was one who championed the cause of civil rights for all Americans long before it became a popular national issue. He moved boldly and vigorously, in the face of bitter resentment from some, to implement the promise of American democracy for equal opportunity and equal rights. He believed passionately in human dignity and he acted upon that belief. Imbued with the vision to see what needed to be done, he was also gifted with the courage to do it. His generosity of spirit and personal warmth were readily communicated to men and women from every social and ethnic background.

His many services to Baltimore and to Maryland constitute lasting benefits which will be remembered as an important part of his legacy. But, in the long run, his memory will be especially honored for his independent spirit, his dedication to justice for all people, and his discernment of the signs of the times. He recognized that the time had come for America to fulfill the letter and the spirit of the Constitution and in so doing to further the brotherhood of man under the fatherhood of God. I salute his idealism, his courage, and his character, and to his loved ones—his widow, his children, and his grandchildren—I extend my deepest sympathy. May they take comfort in the timeless assurance of the Book of Proverbs:

The path of the just is as the shining light, that shineth more and more unto the perfect day.

THE GENOCIDE CONVENTION

Mr. PROXMIRE. Mr. President, today I wish to address myself to critics of the Genocide Convention who claim that the treaty is too weak to serve as a substantive agreement among nations for the punishment of crimes of genocide. The significance of the treaty lies in the fact of 78 or more nations coming together to identfy genocide as a heinous international crime—and to strengthen the authority of international organizations created to defend human rights worldwide. Obviously, if a nation as powerful as the United States does not ratify the treaty, then its effectiveness will be considerably lessened. With the Genocide Convention, and other U.N. conventions, we have the "opportunity and responsibility" to promote and protect humane principles for all peoples.

In its March 1974 report, "Human Rights in the World Community: A Call for U.S. Leadership," the International Organizations and Movements Subcommittee of the House Foreign Affairs Committee, recommends U.S. foreign policy measures for "strengthening the capacity of international organizations to insure protection of human rights."

The Genocide Convention of 1949 is such a measure, and again, Mr. President, I urge that we endorse this treaty now.

BALANCE OF TRADE HITS RECORD DEFICIT

Mr. DOMENICI. Mr. President, somewhere along the line this Nation's drive toward energy self-sufficiency has faltered. We read of increased dependency, not less. We see rising costs and an eroding balance-of-payments situation, dramatized by this morning's news stories on our record balance-of-trade deficit.

As the reports make clear, the underlying problem is the cost of imported petroleum. Last month this Nation paid $1.7 billion more for petroleum than a year ago, even though the volume of petroleum imports was down.

I suspect that the American people are ahead of the Congress on this issue. I think that Americans are still willing to adopt an austerity conservation program that will reduce our dependency on imported oil and move toward increasing our self-sufficiency. I would hope that the Congress would follow what I believe is the lead of the people in this area and begin to consider adopting austerity measures. For example, I have received letters recommending gas rationing. I have received letters saying that some people are willing to change their lifestyles to meet the energy crisis. Unfortunately, we have failed to translate this willingness among the American people into consistent, rational policies to reduce our dependency.

Bluntly, we face a national energy crisis at least as severe as that created by the oil embargo. In this we are a part of the plight of all oil-importing nations.

I hope to speak at greater length on this vital issue. However, let me say now in conclusion that the impact of increasing energy costs has been felt in all sectors of this Nation and in the oil-importing world. Leadership is needed and Congress has a great opportunity to provide this leadership. On the eve of the Domestic Economic Summit Conference, we should all consider ways to manifest this need for leadership.

Mr. President, I ask unanimous consent that the Washington Post article, "Balance of Trade Hits Record Deficit," be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

BALANCE OF TRADE HITS RECORD DEFICIT

(By James L. Rowe, Jr.)

The United States had the largest monthly trade deficit in its history in August as sky-high oil prices continued to push the nation's import bill upward.

The $1.13 billion deficit is much higher than the previous month's $728.4 million and well over the previous record deficit of $800 million in October, 1971, because of a dock strike.

The nation has already imported $2.1 billion more than it has exported in 1974 and for the year as a whole will run a deficit much larger than the administration had hoped.

Secretary of Commerce Frederick B. Dent said "the cumulative deficits are causing severe problems in our balance of payments that result in strains on our domestic economy."

The balance of trade is a basic indicator of the international economic health of a country. In normal times deficits this size would mean that foreigners would end up owning more dollars than they want.

That would lead to a weakening of the dollar—meaning it would take more dollars to purchase a German Deutsche mark, for example, which would raise the cost of imports and intensify domestic inflation.

Today, however, many nations are running large deficits to pay for their oil. Further, the oil-rich Arab countries seem to want to invest most of their new wealth in things they can buy for dollars, so the old rules are not working the same way. A top administration economic official said that the higher oil prices are having an inflationary impact on the U.S. economy, but that the dollar is not weakening severely and may even gain some strength in international markets.

While U.S. imports rose across the board, especially those of iron and steel, Dent said, "There is no doubt that the underlying problem is petroleum. In August alone, the cost of petroleum was $1.7 billion higher than a year ago, even though the volume of petroleum imports was down approximately 10 per cent."

For the year so far, the nation has imported 1.465 billion barrels of petroleum and petroleum products, 2.5 per cent less than the 1.5 billion it imported for the first seven months of 1973. But the cost of this year's oil imports was $15.8 billion, 3½ times more than the $44 billion it cost last year.

On Monday President Ford warned oil producers that the price of oil cannot be maintained at current high levels much longer and told the producers that the high prices represented a "very great risk" to themselves.

Yesterday, the secretary general of the Organization of Petroleum Exporting Countries said in Vienna that OPEC producers might decide to increase the price of oil 1 per cent a month in 1965 if the organization experts see a worldwide inflation rate of 12 per cent.

Abderrahman Khene denied, however, that he made a flat prediction last week that OPEC prices would rise 12 per cent next year and said OPEC experts would meet Oct. 23 to review the price situation.

Secretary Dent said that U.S. imports rose for the eighth consecutive month—to $9.5 billion—while exports increased modestly to $8.4 billion. A year ago, August, the nation recorded a small, $31.5 million, trade surplus.

If the monthly deficit continues for the next four months at the pace it has for the last four, the nation will be in the red by $5 billion in 1974. The administration had predicted earlier that the 1974 deficit would be in the neighborhood of $1.7 billion, a figure that has already been exceeded.

Last year, after two devaluations of the dollar, the nation's exports were $1.4 billion higher than its imports, the first trade surplus since 1970.

On another basis, in which the cost of insurance and freight is figured into the value of imports, the deficit was $1.8 billion in August and $6.77 billion for the year to date.

ECONOMIC SUMMIT CONFERENCE

Mr. NUNN. Mr. President, there are those who have criticized the economic summit conference, scheduled to begin tomorrow, on the basis that such a large and diverse gathering in the glare of television lights cannot hope to come up with any solutions that the experts have not already proposed. They conclude that the meeting is doomed to be a waste and a failure.

I believe that these critics have missed the point and the purpose of the summit. None of us who has urged this meeting expects it to work economic miracles. None of us is so naive as to expect that so diverse a group will be able to forge a single, common action plan for meeting our economic ills. None of us anticipates quick cures, surprising solutions, or easy agreement. But all of us believe that a meeting of the top public and private leadership is essential if we are to take effective action as a Nation to restore our national economy. And all of us are firmly convinced that nothing less than a concerted national effort can put our country back on the road to economic recovery and restore prosperity to the American people.

It is important that we keep in mind that the Federal Government is not alone responsible for our economic problems nor can it alone correct them. Every sector of the economy has contributed to the current inflation as it has pursued—understandably—its own interests. Likewise every segment is a victim of inflation. Mushrooming costs rob salaries, erode savings, squeeze profits, and make a mockery of the budgets and programs of Federal, State, and local governments.

The causes of the current situation are many, complex, and in dispute. The specific remedies available are individually of limited impact. Taken together they could be effective or, if uncoordinated, destructive. No element in our society working independently—not the President, not the Congress, not the Federal Reserve, not State and local governments, nor business, nor labor, nor finance, nor agriculture—can hope to combat this truly national problem effectively. And unless the common problem is overcome, no sector can expect to achieve any real and lasting relief for itself.

The tools available to combat inflation are limited essentially to fiscal and monetary policy, wage and price policies which most not reject as unworkable, productivity efforts, and specific actions to relieve specific structural obstacles in the economy. The President and the Congress have direct control over fiscal policy and, in principle, can change Federal spending and revenues as economic conditions appear to indicate. In practice, we all too rarely work together and often work at cross purposes. Today, coordination between us is essential.

The Federal Reserve Board has direct control over monetary policy and acts largely independently. This may be a boon or a bane to the economy. In the past we have seen expansionary fiscal policies countered by restrictive monetary policies, and we have seen the economy jerked about by fits and starts with the administration pushing on the accelerator and the Federal Reserve pulling on the brakes. Today, a coordinated approach is indispensable.

Wage and price policies, unless we are to return to the direct controls that have failed us so badly in the past, cannot be legislated. They depend on the full and willing commitment of producers and workers alike. To turn, however, to fiscal and monetary policy to combat inflation in the absence of wage and price restraint would be about as effective as clapping with just one hand. In many cases, voluntary action is more immediate, effective, and lasting than legislation can hope to be.

Such considerations as these make it evident to me that the Federal Government cannot hope to act effectively to combat our inflation unless, first, it coordinates its plan of action internally among the executive, the Congress, and the Federal Reserve, and second, unless it develops the full understanding and participation of all vital sectors of the economy, including the American people.

With productivity down for a second quarter, and prices and unemployment continuing to climb, the urgency of the problems facing the economic summit are underscored.

No one is under any illusion that we will be able to solve all our economic problems in a few hours at one meeting. I believe we will require a series of meetings over some time, to propose, plan and implement action.

When my four colleagues and I called for a domestic economic summit conference last July, I stressed the necessity of engaging the American people in a dialog on our economic problems.

This dialog was to serve as a means of getting the best ideas available from private sectors, informing all Americans as to the problems before us, and creating a climate of cooperation and common purpose to generate solutions to our present difficulties.

This concept was followed in the series of presummit conferences held throughout the country in the past month.

I personally attended one of these minisummits in Pittsburgh which dealt with the specific problems of business and industry. As a result of this conference and others around the country, it has become apparent that there are at least six steps which must be taken to curb inflation and return the Nation to a productive economy: First, cut the Federal budget; second, ease the present restrictive monetary policy; third, increase productivity; fourth, encourage savings; fifth, lower world crude oil prices; and sixth, provide relief for low income Americans and those on fixed incomes. In my opinion, these items should be among the first topics discussed when the summit convenes tomorrow.

It is my hope that the summit conference will provide the means for the development and implementation of a plan of action; and hopefully, it will bring forth from all who take part the commitment to compromise and work together for the common good that our common peril requires.

Mr. President, I firmly believe that our Nation must work together to overcome the most serious domestic difficulty that has faced this Nation in two generations. I urge my colleagues and all Americans to give this effort their fullest support.

CONCLUSION OF MORNING BUSINESS

Mr. MANSFIELD. Mr. President, is there further morning business?

The ACTING PRESIDENT pro tempore. Is there further morning business? If not, morning business is closed.

HELLS CANYON NATIONAL RECREATION AREA

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate turn to the consideration of Calendar No. 1114, S. 2233.

The ACTING PRESIDENT pro tempore. The bill will be stated by title.

The legislative clerk read as follows:

A bill (S. 2233) to establish the Hells Canyon National Recreation Area in the States of Idaho, Oregon, and Washington, and for other purposes.

The ACTING PRESIDENT pro tempore. Without objection, the Senate will proceed to its consideration.

The Senate proceeded to consider the bill, which had been reported from the Committee on Interior and Insular Affairs with an amendment to strike out all after the enacting clause and insert in lieu thereof the following:

That (a) to assure that the natural beauty, and historical and archeological values of the Hells Canyon area and the one hundred and one and four-tenths mile segment of the Snake River between Hells Canyon Dam in Idaho and Asotin, Washington, together with portions of certain of its tributaries and adjacent lands, are preserved for this and future generations, and that the recreational and ecologic values and public enjoyment of the area are thereby enhanced, there is hereby established the Hells Canyon National Recreation Area.

(b) The Hells Canyon National Recreation Area (hereinafter referred to as the "recreation area"), which includes the Hells Canyon Wilderness Areas (hereinafter referred to as the "wilderness area"), the components of the Wild and Scenic Rivers System designtaed in section 3 of this Act, and

the wilderness study areas designated in subsection 8(d) of this Act, shall comprise the lands and waters generally depicted on the map entitled "Hells Canyon National Recreation Area" dated July 1974, which shall be on file and available for public inspection in the office of the Chief, Forest Service, Department of Agriculture. The Secretary of Agriculture (hereinafter referred to as "the Secretary"), shall, as soon as practicable, publish a detailed boundary description of the recreation area, the wilderness study areas designated in subsection 8(d) of this Act, and the wilderness areas established in section 2 of this Act in the Federal Register.

SEC. 2. (a) The lands depicted as the "Hells Canyon Wilderness Areas" on the map referred to in subsection 1(b) of this Act are hereby designated as wilderness.

(b) The wilderness areas designated by this Act shall be administered by the Secretary in accordance with the provisions of this Act or in accordance with the provisions of the Wilderness Act (78 Stat. 893), whichever is the more restrictive, except that any reference in such provisions of the Wilderness Act to the effective date of that Act shall be deemed to be a reference to the effective date of this Act. The provisions of section 9(b) and section 11 shall apply to the wilderness areas. The Secretary shall make such boundary revisions to the wilderness areas as may be necessary due to the exercise of his authority under subsection 3(b) of this Act.

SEC. 3. (a) The Congress hereby incorporates the Rapid River and the Snake River into the National Wild and Scenic Rivers System in the status listed—

(1) Rapid River, Idaho.—The segment from the headwaters of the main stem to the national forest boundary and the segment from the headwaters of the west fork to the confluence with the main stem, as a wild river.

(2) Snake, Idaho, Oregon, and Washington.—The segment from Hells Canyon Dam downstream to Pittsburg Landing, as a wild river; the segment from Pittsburg Landing to Dough Creek, as a scenic river; and the segment from Dough Creek downstream to the town of Asotin, Washington, as a recreational river.

(b) The segments of the Snake River and the Rapid River designated as wild, scenic, or recreational river areas by this Act shall be administered by the Secretary in accordance with the provisions of the Wild and Scenic Rivers Act (82 Stat. 906), as amended: *Provided*, That the Secretary shall establish a uniform corridor along such segments and may not undertake or permit to be undertaken any activities on adjacent public lands which would impair the water quality of the Rapid River segment: *Provided further*, That the Secretary is authorized to make such minor boundary revisions in the corridors as he deems necessary for the provision of such facilities as are permitted under the applicable provisions of the Wild and Scenic Rivers Act (82 Stat. 906).

SEC. 4. (a) Notwithstanding any other provision of law, or any authorization heretofore given pursuant to law, the Federal Power Commission may not license the construction of any dam, water conduit, reservoir, powerhouse, transmission line, or other project work under the Federal Power Act (41 Stat. 1063), as amended (16 U.S.C. 791a et seq.), within the recreation area: *Provided*, That the provisions of the Federal Power Act (41 Stat. 1963) shall continue to apply to any project (as defined in such Act), and all of the facilities and improvements required or used in connection with the operation and maintenance of said project, in existence within the recreation area which project is already constructed or under construction on the date of enactment of this Act.

(b) No department or agency of the United States may assist by loan, grant, license, or otherwise the construction of any water resource facility within the recreation area which the Secretary determines would have a direct and adverse effect on the values for which the waters of the area are protected.

SEC. 5. The Asotin Dam, authorized under the provisions of the Flood Control Act of 1962 (76 Stat. 1173), is hereby deauthorized.

SEC. 6. (a) No provision of the Wild and Scenic Rivers Act (82 Stat. 906), nor of this Act, nor any guidelines, rules, or regulations issued hereunder, shall in any way limit, restrict, or conflict with present and future use of the waters of the Snake River and its tributaries upstream from the boundaries of the Hells Canyon National Recreation Area created hereby, for beneficial uses, whether consumptive or nonconsumptive, now or hereafter existing, including, but not limited to, domestic, municipal, stockwater, irrigation, mining, power, or industrial uses.

(b) No flow requirements of any kind may be imposed on the waters of the Snake River below Hells Canyon Dam under the provisions of the Wild and Scenic Rivers Act (82 Stat. 906), of this Act, or any guidelines, rules, or regulations adopted pursuant thereto.

SEC. 7. (a) Except as otherwise provided in sections 2 and 3 of this Act, and subject to the provisions of section 10 of this Act, the Secretary shall administer the recreation area in accordance with the laws, rules, and regulations applicable to the national forests for public outdoor recreation in a manner compatible with the following objectives.

(1) the maintenance and protection of the free-flowing nature of the rivers within the recreation area;

(2) conservation of scenic, wilderness, cultural, scientific, and other values contributing to the public benefit;

(3) preservation, especially in the area generally known as Hells Canyon, of all features and peculiarities believed to be biologically unique including, but not limited to, rare and endemic plant species, rare combinations of aquatic, terrestrial, and atmospheric habitats, and the rare combinations of outstanding and diverse ecosystems and parts of ecosystems associated therewith;

(4) protection and maintenance of fish and wildlife habitat;

(5) protection of archeological and paleontologic sites and interpretation of these sites for the public benefit and knowledge insofar as it is compatible with protection;

(6) preservation and restoration of historic sites associated with and typifying the economic and social history of the region and the American West; and

(7) such management, utilization, and disposal of natural resources on federally owned lands, including, but not limited to, timber harvesting by selective cutting, mining, and grazing and the continuation of such existing uses and developments as are compatible with the provisions of this Act.

SEC. 8. (a) Within five years from the date of enactment of this Act the Secretary shall develop a comprehensive management plan for the recreation area which shall provide for a broad range of land uses and recreation opportunities.

(b) In the development of such plan, the Secretary shall consider the historic, archeological, and palentological resources within the recreation area which offer significant opportunities for anthropological research. The Secretary shall inventory such resources and may recommend such areas as he deems suitable for listing in the National Register of Historic Places. The Secretary's comprehensive plan shall include recommendations for future protection and controlled research use of all such resources.

(c) The Secretary shall, as a part of his comprehensive planning process, conduct a detailed study of the need for, and alternative routes of, scenic roads and other means of transit to and within the recreation area. In conducting such study the Secretary shall consider the alternative of upgrading existing roads and shall, in particular, study the need for and alternative routes of roads or other means of transit providing access to scenic views of and from the western rim of Hells Canyon.

(d) The Secretary shall review, as to their suitability or nonsuitability for preservation as wilderness, the areas generally depicted on the map referred to in section 1 of this Act as the "Lord Flat-Somers Point Plateau Wilderness Study Area" and the West Side Reservoir Face Wilderness Study Area" and report his findings to the President. The Secretary shall complete his review and the President shall, within five years from the date of enactment of this Act, advise the United States Senate and House of Representatives of his recommendations with respect to the designation of lands within such area as wilderness. In conducting his review the Secretary shall comply with the provisions of section 3(d) of the Wilderness Act and shall give public notice at least sixty days in advance of any hearing or other public meeting concerning the wilderness study area. The Secretary shall administer all Federal lands within the study areas so as not to preclude their possible future designation by the Congress as wilderness. Nothing contained herein shall limit the President in proposing, as part of this recommendation to Congress, the designation as wilderness of any additional area within the recreation area which is predominantly of wilderness value.

(e) In conducting the reviews and preparing the comprehensive management plan required by this section, the Secretary shall provide for full public participation and shall consider the views of all interested agencies, organizations, and individuals including, but not limited to, the Nez Perce Tribe of Indians, the States of Idaho, Oregon, and Washington. The Secretaries or Directors of all Federal departments, agencies, and commissions having relevant expertise are hereby authorized and directed to cooperate with the Secretary in his review and to make such studies as the Secretary may request on a cost reimbursable basis.

SEC. 9. (a) The Secretary is authorized to acquire such lands or interests in land (including, but not limited to, scenic easements) as he deems necessary to accomplish the purposes of this Act by purchase with donated or appropriated funds with the consent of the owner, donation, or exchange.

(b) The Secretary is further authorized to acquire by purchase with donated or appropriated funds such lands or interests in lands without the consent of the owner only if (1) he deems that all reasonable efforts to acquire such lands or interests therein by negotiation have failed, and (2) the total acreage of all other lands within the recreation area to which he has acquired fee simple title or lesser interests therein without the consent of the owner is less than 5 per centum of the total acreage which is privately owned within the recreation area on the date of enactment of this Act: *Provided*, That the Secretary may acquire scenic easements in lands without the consent of the owner and without restriction to such 5 per centum limitation: *Provided further*, That the Secretary may only acquire scenic easements in lands without the consent of the owner after the date of publication of the regulations required by section 10 of this Act when he determines that such lands are being used, or are in imminent danger of being used, in a manner incompatible with such regulations.

(c) Any land or interest in land owned by the States of Oregon or Washington or any of their political subdivisions may be acquired only by donation. Any land or interest in land owned by the State of Idaho or any of its political subdivisions may be acquired only by donation or exchange.

(d) As used in this Act the term "scenic easement" means the right to control the use of land in order to protect esthetic values for the purposes of this Act, but shall not preclude the continuation of any farming or pastoral use exercised by the owner as of the date of this Act.

(e) The Secretary shall give prompt and careful consideration to any offer made by a person owning land within the recreation area to sell such land to the Secretary. The Secretary shall specifically consider any hardship to such person which might result from an undue delay in acquiring his property.

(f) In exercising his authority to acquire property by exchange, the Secretary may accept title to any non-Federal property, or interests therein, located within the recreation area and, notwithstanding any other provision of law, he may convey in exchange therefor any federally owned property within the same State which he classifies as suitable for exchange and which is under his administrative jurisdiction: *Provided*, That the values of the properties so exchanged shall be approximately equal, or if they are not approximately equal, they shall be equalized by the payment of cash to the grantor or to the Secretary as the circumstances require. In the exercise of his exchange authority, the Secretary may utilize authorities and procedures available to him in connection with exchanges of national forest lands.

(g) Notwithstanding any other provision of law, except for the provisions of subsection (a) of this section, the Secretary is authorized to acquire mineral interests in lands within the recreation area, with or without the consent of the owner. Upon acquisition of any such interest, the lands and/or minerals covered by such interest are by this Act withdrawn from entry or appropriation under the United States mining laws and from disposition under all laws pertaining to mineral leasing and all amendments thereto.

(h) Notwithstanding any other provision of law, any Federal property located within the recreation area may, with the concurrence of the agency having custody thereof, be transferred without consideration to the administrative jurisdiction of the Secretary for use by him in carrying out the purposes of this Act.

SEC. 10. The Secretary shall promulgate, and may amend, such rules and regulations as he deems necessary to accomplish the purposes of this Act. Such rules and regulations shall include, but are not limited to—

(a) standards for the use and development of privately owned property within the recreation area, which rules or regulations the Secretary may, to the extent he deems advisable, implement with the authorities delegated to him in section 9 of this Act, and which may differ among the various parcels of land within the recreation area;

(b) standards and guidelines to insure the full protection and preservation of the historic, archaeological, and paleontological resources in the recreation area;

(c) provision for the control of the use of motorized and mechanical equipment for transportation over, or alteration of, the surface of any Federal land within the recreation area; and

(d) provision for the control of the use and number of motorized and nonmotorized river craft: *Provided*, That the use of such craft is hereby recognized as a valid use of the Snake River within the recreation area.

SEC. 11. Notwithstanding the provisions of section 4(d)(2) of the Wilderness Act and subject to valid existing rights, all Federal lands located in the recreation area are hereby withdrawn from all forms of location, entry, and patent under the mining laws of the United States, and from disposition under all laws pertaining to mineral leasing and all amendments thereto.

SEC. 12. The Secretary shall permit hunting and fishing on lands and waters under his jurisdiction within the boundaries of the recreation area in accordance with applicable laws of the United States and the States wherein the lands and waters relocated except that the Secretary may designate zones where, and establish periods when, no hunting or fishing shall be permitted for reasons of public safety, administration, or public use and enjoyment. Except in emergencies, any regulations of the Secretary pursuant to this section shall be put into effect only after consultation with the appropriate State fish and game department.

SEC. 13. Ranching, grazing, farming, and the occupation of homes and lands associated therewith, as they exist on the date of enactment of this Act, are recognized as traditional and valid uses of the recreation area.

SEC. 14. Nothing in this Act shall diminish, enlarge, or modify any right of the States of Idaho, Oregon, Washington, or any political subdivisions thereof, to exercise civil and criminal jurisdiction within the recreation area or of rights to tax persons, corporations, franchises, or property, including mineral or other interests, in or on lands or waters within the recreation area.

SEC. 15. The Secretary may cooperate with other Federal agencies, with State and local public agencies, and with private individuals and agencies in the development and operation of facilities and services in the area in furtherance of the purposes of this Act, including, but not limited to, restoration and maintenance of the historic setting and background of towns and settlements within the recreation area.

SEC. 16. (a) There is hereby authorized to be appropriated the sum of not more than $60,000,000 for improvements of—

(1) the existing road from the town of Imnaha, Oregon, to Dug Bar on the Snake River;

(2) the existing road from White Bird, Idaho, over Pittsburg Saddle to Pittsburg Landing on the Snake River;

(3) either the existing road from Imnaha, Oregon, to Five Mile Point, or an alternative road following generally the same route to Five Mile Point, and thence to Hat Point Lookout above the Snake River;

(4) the existing road from Riggins, Idaho, to Heaven's Gate Lookout above the Snake River.

(b) There is hereby authorized to be appropriated the sum of not more than $10,000,000 for the acquisition of lands and interests in lands.

(c) There is hereby authorized to be appropriated the sum of not more than $10,000,000 for the development of recreation facilities (principally campgrounds) along the four roads as described in subsection (a) of this section and for the development of interpretive visitors' centers at Hat Point in Oregon and at Heaven's Gate in Idaho.

(d) There is hereby authorized to be appropriated the sum of not more than $1,500,000 for the inventory, identification, development, and protection of the historic and archeological sites described in section 5 of this Act.

SEC. 17. If any provision of this Act is declared to be invalid, such declaration shall not affect the validity of any other provision hereof.

Mr. CHURCH. Mr. President, this legislation is jointly sponsored by myself, Senator MCCLURE, Senator HATFIELD, and Senator PACKWOOD. The Senate Committee on Interior and Insular Affairs, to which the bill was referred, has considered the legislation and favorably reports the bill with an amendment and recommends that the bill as amended do pass.

As a sponsor, I am pleased to offer the Hells Canyon National Recreation Area proposal for Senate consideration. The bill is designed to assure that the Hells Canyon area in Idaho and Oregon will be maintained for the enjoyment and benefit of the people. Passage will mark the culmination of a long debate over the future use of the last free-flowing stretch of the mighty Snake River.

Since 1954, the fate of Hells Canyon has been in question. Hydroelectric interests have pressed for Federal Power Commission authorization to construct a dam on this stretch of the river. As a result of determined opposition by groups of concerned citizens throughout the Pacific Northwest, the Supreme Court of the United States ruled that the Federal Power Commission should reconsider an order issued by that Agency in 1964 which licensed construction of the High Mountain Sheep Dam. Subsequent to that decision, I introduced, along with former Senator Len Jordan, a 10-year Middle Snake River moratorium bill. That proposal passed the Senate on two different occasions but was never acted on by the House of Representatives. In February 1971, an administrative law judge of the Federal Power Commission rendered an initial decision on this matter and recommended that an FPC moratorium be placed on construction of any project until September 11, 1975, in order to give Congress time to work out a management plan for the Hells Canyon region. The time is drawing near for a final legislative determination to be made.

Unless action is taken in this Congress, I fear that the FPC may license construction of a high dam—a dam whose kilowatt production capacity would only be enough to satisfy a few months' growth in the Northwest's energy demand. Such an irreversible step, which will not solve any long-term energy needs, is totally unacceptable to me. The administration agrees. In testimony before the Interior Committee, numerous executive agencies, including the Army Corps of Engineers, the Forest Service, the Environmental Protection Agency, the Department of Interior and the Federal Energy Administration recommended the Middle Snake for inclusion in the Wild and Scenic River System.

Furthermore, to accommodate various resource user groups, including mining and timber interests, and recognizing the nationwide need for both minerals and timber, the total acreage in Idaho has been cut back by nearly half.

This decision will not jeopardize the basic goal of the act which is to prevent construction of a dam on the Snake River in the Hells Canyon area, to preserve the canyon—the deepest gorge on the North American continent—in its natural state, and to maintain the water quality in the Rapid River drainage.

The combined, dedicated efforts of a great many Idahoans is represented by this legislation. Also, the Senators from Idaho and Oregon have spent a good many hours together, molding what I believe is a well-balanced measure de-

signed to manage the Hells Canyon region.

The Hells Canyon National Recreation Area bill was introduced more than a year ago. Public hearings have been held in LaGrande, Oregon, and in Lewiston, Idaho. Further, the Subcommittee on Parks and Recreation of the Senate Interior Committee held hearings in Washington, and both the subcommittee and the full committee have favorably considered this bill.

Sponsors of this bill never intended the initial draft, which was submitted in July 1973, to be the final version. The Interior Committee made changes in which the sponsors concur. These changes were made at the behest of those who testified, representing many different user groups—recreation, timber, mineral, to name only a few.

Of considerable importance on the Idaho side was a redrawing of boundaries, which I mentioned earlier, to exclude the Rapid River drainage. This area is vitally important to the anadromous fishery of the entire Pacific Northwest. Thus, although the drainage is left outside the boundaries of the national recreation area, it is provided in the bill that the water quality of the Rapid River will be sustained by including the Rapid River in the wild and scenic rivers system. Moreover, the entire drainage area is to be managed in such a manner as to be consonant with the objective of preserving the water quality of that river.

Our purpose has been to create a management plan for the Hell's Canyon area. To be included are two wilderness areas, several study areas, and the designation of certain segments of the Snake and Rapid Rivers as recreation, scenic or wild. Except for the designation of the rivers, which the administration itself recommends in the case of the Snake, the management scheme is similar in concept to that of the Sawtooth National Recreation Area bill, enacted in 1972.

Certain exceptions have been made to the Wilderness Act and the Wild and Scenic Rivers Act in this effort to develop a comprehensive management plan. I am not unmindful of these exceptions. I was floor manager of the Wilderness Act and author of the Wild and Scenic Rivers Act. However, I do not—and it is not the intent of the Senate Interior and Insular Affairs Committee—to view these exceptions as a vehicle for setting new precedents on interpretation or administration of these basic enabling statutes.

Mr. President, I ask unanimous consent that the section-by-section analysis of this bill, which appears in the Senate Interior Committee report on S. 2233, be printed in the RECORD.

There being no objection, the section-by-section analysis of the bill was ordered to be printed in the RECORD, as follows:

SECTION-BY-SECTION ANALYSIS

Section 1(a) defines the purpose of the Act which is to preserve the Hells Canyon area, portions of the Snake River and Rapid River in Idaho, including certain tributaries and adjacent lands, by establishing a Hells Canyon National Recreation Area.

Section 1(b) describes the boundaries of the Hells Canyon National Recreation Area, including Hells Canyon Wilderness Areas, components to the Wild and Scenic River System, and certain wilderness study areas, located in the State of Oregon.

The Committee intends by creation of a national recreation area to develop a specific form of management for the area involved. While certain portions of the Hells Canyon National Recreation Area are also included with the Wilderness System and the Wild and Scenic Rivers System, this Act is not intended to set a precedent for inclusion of future areas into either the Wilderness System or the Wild and Scenic Rivers System. Special exceptions to the Wilderness Act and the Wild and Scenic Rivers Act have been made in this Act in order to structure a comprehensive management plan which includes wild, scenic, and recreational rivers, wilderness areas and recreation areas.

Section 2(a) establishes, by reference to an official map, the Hells Canyon Wilderness Areas which are designated as wilderness and thereby incorporated into the Wilderness System.

Section 2(b) requires that the wilderness areas, designated by this Act, shall be administered under provisions of this Act or the Wilderness Act, whichever is the more restrictive. Section 9(b) and section 11 of this Act apply to the wilderness areas designated herein and where appropriate are meant to be specific exceptions to the Wilderness Act.

The Secretary is also directed to make boundary revisions to the wilderness areas which border lands adjacent to and designated part of those segments of the Snake River incorporated into the Wild and Scenic Rivers System where such revision would be required by a boundary adjustment pursuant to subsection 3(b).

Section 3(a) designates and classifies portions of the Snake River and the Rapid River for inclusion in the Wild and Scenic Rivers System. The Rapid River, from the headwaters of the main fork to the present national forest boundary (20.3 river miles) and from the headwaters of the west fork to its confluence with the main stem of the Rapid River (10.5 river miles) is designated a wild river. The Snake River, from Hells Canyon Dam downstream to Pittsburg Landing (32.4 river miles) is designated a wild river; from Pittsburg Landing to Dough Creek (43.8 river miles) is designated a scenic river; and, from Dough Creek to Asotin, Washington (25.1 river miles) is designated a recreational river.

Section 3(b) provides that those segments of the Snake River and the Rapid River designated under this Act shall be administered under provisions of the Wild and Scenic Rivers Act. However, the Secretary is required to establish a generally uniform corridor along the river segments involved.

While not constituting an exception to subsection 3(b) of the Wild and Scenic Rivers Act which directs that such river corridors shall include an average of not more than 320 acres per mile on both sides of the river, this subsection directs the Secretary to establish river corridors which generally do not include varying amounts of land groupings per river mile, causing irregular boundaries. This provision is necessitated due to the wilderness areas which abut the river on both sides.

The Secretary is not to undertake or permit to be undertaken any activity on public lands in the Rapid River drainage which would impair the water quality of those portions of the Rapid River designated as wild river. The Committee intends, therefore, that such activities as may take place in the drainage area shall be in consonance with the objectives sought by the Committee in maintaining the water quality of the Rapid River. The Rapid River Salmon Hatchery, located in the Rapid River drainage area, is meant to sustain the anadromous fishery in the Snake, Salmon and Clearwater drainages. The success of this hatchery is due, in large part, to the water quality of the Rapid River and associated watershed resources. The entire drainage area shall, thus, be managed to protect the water quality of this river. In developing management policies for this watershed, the Secretary should consider, as an example, the severe watershed degradation done in the adjoining Indian Creek drainage as a result of existing resource management practices. The Committee intends that such degradation should not occur in the Rapid River drainage which would thereby impair the water quality of the Rapid River itself.

The Secretary is authorized to make such minor boundary changes in the corridors of the rivers as he deems necessary to provide for such facilities and structures for public use as are permitted under the Wild and Scenic Rivers Act. By setting back the wilderness boundaries from the banks of the Snake River and establishing a corridor of land adjacent to the river which is included within the Wild and Scenic River designation, the Committee believes that the Secretary shall clearly be allowed to permit such permanent structures along the banks of the Snake River as he deems necessary to support public use.

Section 4(a) provides that the Federal Power Commission shall not license the construction of any dam or other work project heretofore authorized by law within the national recreation area. However, such projects as are already constructed or under construction on the date of enactment of this Act and within the recreation area shall not be affected by provisions of this subsection.

Section 4(b) prohibits any department or agency of the United States from assisting in any way in the construction of any water resource facility within the recreation area which would have an adverse effect on the values for which the waters within the recreation area are to be protected. Concern was expressed during public hearings that this subsection, as originally worded, might be interpreted as a prohibition on the use of Federal funds for upstream water development. The Committee amended the original bill to assure that the limitation on Federal government assistance applies only within the recreation area.

Section 5 deauthorizes Asotin Dam.

Section 6(a) provides that no provisions of the Wild and Scenic Rivers Act, nor this Act, nor any guidelines, rules or regulations issued pursuant to this Act shall limit, restrict or conflict with the present or future upstream water uses. The Committee intends, by this language, to protect and preserve the present and future rights of the water users upstream in the State of Idaho.

Section 6(b) prohibits the establishment of any minimum flow requirements through that portion of the Snake River included within the Wild and Scenic Rivers system.

Section 7(a) directs that the Secretary shall administer the recreation area for public outdoor recreation and in a manner compatible with the following objectives:

(1) to maintain and protect the free-flowing nature of rivers within the recreation area,

(2) to conserve the scenic, wilderness, cultural, scientific and other values contributing to the public benefit,

(3) to preserve features and peculiarities believed to be biologically unique,

(4) to protect and maintain fish and wildlife habitat,

(5) to protect and interpret archeological and paleontologic sites,

(6) to preserve and restore certain historic sites associated with the economic and social history of the region,

(7) to manage, utilize and dispose of federally owned natural resources, including timber harvesting by selective cutting, min-

ing and grazing and other such uses as are compatible with the Act. The Committee intends, by this language to allow selective clearcutting, but such activity violates the policy of this Act and consequently, should only be allowed under the most exceptional of circumstances and not in detriment to the other objections contained herein.

The provisions of this subsection shall be superseded in those areas of the recreation area otherwise provided for under sections 2 and 3 and 10 of this Act dealing with wilderness designation (section 2), wild, scenic and recreational river designation (section 3), and promulgation of regulations for certain activities within the recreation area (section 10).

Section 8(a) prescribes that within five years from the date of enactment of this Act the Secretary develop a comprehensive management plan for the recreation area.

Section 8(b) provides that in developing a comprehensive management plan as provided under subsection 8(a), the Secretary is directed to give special attention to the historic, archeological and paleontological resources of the area; to inventory such resources; and, where appropriate to recommend such areas for listing in the National Register of Historic Places. The Secretary's comprehensive plan is to include recommendations for future protection and controlled research use of all such resources.

Section 8(c) directs the Secretary, as part of his comprehensive planning process, to conduct a detailed study of the need for scenic roads and other means of transit into the recreation area. The Secretary is directed to give particular attention to the need for providing roads and other means of transit which would provide access to scenic views of and from the western rim of Hells Canyon. The Secretary is also required, in his study, to consider the alternative of upgrading existing roads. The Committee intends that the Secretary, in conducting this study, shall engage advanced engineering consultation, within or without the Department of Agriculture. Furthermore, all alternative means of transit, including mass transit, and alternative locations of routes should be fully considered so that such recommendations will be in consonance with the overall purposes of the recreation area.

Section 8(d) directs the Secretary to review certain areas within the recreation area in Oregon for suitability or non-suitability as wilderness. Within five years the Secretary is to complete his review and the President is to inform the Congress of such recommendation. Further, the Secretary is required to conduct such review in accordance with section 3(d) of the Wilderness Act and shall give 60 days public notice of any hearing on such study areas. The Secretary is not precluded from recommending other areas within the recreation area for inclusion within the wilderness system.

The Committee intends that the studies called for in this subsection and the road and transportation study called for in section 8(c) shall be conducted in close coordination because much of the same terrain is involved in both studies. Direction to study roads and other access alternatives is not intended in any way to prejudice full study and consideration of wilderness along the rim of the canyon, but neither is the wilderness study requirement intended to in any way prejudice full study of roads and other access alternatives to and along the rim. Rather, it is the objective of these provisions to assure that the Secretary, the public and the Congress will be provided the fullest and most objective study of all alternatives, so that ultimate development and wilderness designation decisions may be arrived at on the basis of the most thorough and informed consideration.

Section 8(e) directs the Secretary in preparing the comprehensive management plan to provide full public participation and to consider the views of all interested public and private bodies. Such interested agencies, organizations and individuals could include, for example, the principal universities of the three states involved and the governmental and nongovernmental agencies and organizations concerned with historical ecological and land use studies. The Committee anticipates that the Secretary will fully consider the views and recommendations of these interested parties.

Section 9(a) provides that the Secretary is authorized to acquire lands or interests in land accomplish the purposes of this Act by donation, exchange or purchase from willing sellers with donated or appropriated funds.

Section 9(b) provides that the Secretary may acquire without the consent of the owner lands and interests in land only if two requirements are met. (1) The Secretary deems that all reasonable efforts to acquire such lands or interests in land by negotiation have failed; and (2) no more than 5 per centum of the total private owned land within the recreation area shall have been acquired without the consent of the owner. Notwithstanding the 5 per centum limitation on land acquisition in the recreation area, the Secretary is authorized to acquire scenic easements in land without the consent of the owner. Furthermore, as provided in subsection 9(g) the 5 per centum limitation shall not apply to the acquisition of mineral interests. After regulations required by section 10 of this Act have been published the Secretary may only acquire scenic easements in lands without the consent of the owner and then, only if such lands are being used, or are in imminent danger of being used in a manner incompatible with such regulations. The Committee intends by provisions of this subsection to limit the power of the Secretary to acquire lands or interests therein without the consent of the owner. The acquisition of scenic easements is intended to be a principal method by which conformance to the overall purposes of this Act is to be achieved; that is why no limitation, like that placed on the acquisition of land or other interests therein, save mineral interests, is imposed in the case of scenic easements.

Section 9(c) provides that lands or interests in land owned by the States of Oregon or Washington or a political subdivision may be acquired only by donation. Such land or interests in land owned by the State of Idaho may be acquired only by donation or exchange. Provisions of the Idaho Admissions Act prohibit the State of Idaho from donating any State school section lands. The Committee recognizes the difficulty thus created for the State of Idaho in light of the fact that the Committee has adoped a policy of requiring a State to donate lands which are utilized for the same recreation purposes as that anticipated by the Federal government. However, it is still the policy of the Committee to retain the requirement of donation of State lands under such circumstances.

Section 9(d) defines "scenic easement" to mean the right to control the use of land to protect esthetic values but not to preclude farming or pastoral uses already existing.

Section 9(e) requires the Secretary to give prompt consideration to any offer made to sell private inholdings within the recreation area and to specifically consider any undue hardship to such property owner caused by an undue delay.

Section 9(f) provides that the Secretary may accept title to any non-Federal property in the recreation area and exchange for such property any federally owned property within the same State. Where values of such exchanged properties are not equal, such value may be equalized by the payment of cash from the party required to equalize the exchange.

Section 9(g) provides that the Secretary is authorized to acquire mineral interests in lands within the recreation area. Such acquired lands or mineral interest shall be withdrawn from further mineral entry.

Section 9(h) provides that lands under the jurisdiction of another agency may be transferred to the administrative jurisdiction of the Secretary.

Section 10(a) directs the Secretary to promulgate rules and regulations for the use and development of private lands within the recreation area. While regulations may differ from parcel to parcel, they shall be in furtherance of the purposes of this Act.

Section 10(b) directs the Secretary to promulgate standards and guidelines for the protection of historic, archaeological and paleontological resources in the recreation area as further defined in subsection 8(b) of this Act.

Section 10(c) directs the Secretary to promulgate such regulations as may be necessary to control the use of motorized and mechanical equipment for transportation over Federal lands within the recreation area. The Committee intends by this subsection to draw special attention to the need to take action to regulate the use of and protect the surface values of, the Federal lands in the recreation area, and thus directs that rules and regulations necessary to carry out this subsection shall be promulgated and issued by the Secretary.

Section 10(d) directs the Secretary to promulgate rules and regulations to control the use of motorized and nonmotorized river craft. However, the Committee specifically recognizes that the use of such motorized craft as jet boats are a valid use and thereby allowed within the recreation area.

Section 11 provides that all Federal lands located within the recreation area are withdrawn from all forms of mineral location, entry and patent notwithstanding subsection 4(d)(2) of the Wilderness Act.

Section 12 directs the Secretary to permit hunting and fishing within the boundaries of the recreation area in accordance with applicable federal and state laws, except that he may designate zones where and establish periods when, no hunting or fishing shall be permitted for reasons of public safety, administration or public use and enjoyment. Except in an emergency the Secretary must first consult with appropriate State fish and game departments regarding regulations under this section. The Committee intends by the language of this subsection to assure that the States involved will continue present jurisdiction over hunting and fishing.

Section 13 provides that ranching, grazing, farming and the associated occupation of lands and homes shall be considered valid uses of the recreation area.

Section 14 clarifies that nothing in this Act shall diminish, enlarge or modify the civil and/or criminal jurisdiction of the States involved over lands within the recreation area.

Section 15 provides that the Secretary may cooperate with other governmental bodies in the development and operation of facilities and services in the area which are in furtherance of the purposes of this Act.

Section 16(a) authorizes to be appropriated the sum of not more than $60,000,000 for improvements of existing roads or alternate roads into and within the recreation area.

Section 16(b) authorizes to be appropriated the sum of not more than $10,000,000 for the acquisition of lands or interests in land within the recreation area.

Section 16(c) authorizes to be appropriated the sum of not more than $10,000,000 for

the development of certain recreation facilities.

Section 16(d) authorizes to be appropriated the sum of not more than $1,500,000 for identification, development and protection of historical and archeological sites described in section 5 of this Act.

Section 17 provides where any provision of this Act may be declared invalid, such will not affect the validity of other provisions of this Act.

Mr. CHURCH. Mr. President, I ask unanimous consent to have printed in the RECORD a statement by the distinguished Senator from Oregon (Mr. HATFIELD) who is unable to be here today.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

STATEMENT BY SENATOR HATFIELD

I strongly support S. 2233 as reported by the Senate Interior Committee and I urge the Senate to pass this legislation.

Protection of the Hells Canyon area is hardly a new issue. We have been dealing with measures affecting this area for many years. The Senate has twice passed legislation I cosponsored with the senior Senator from Idaho (Mr. Church) and Len Jordan, our former colleague from Idaho, which would have prohibited dam construction on this magnificent stretch of the Middle Snake River until 1978. Unfortunately, the House of Representatives never approved this bill.

The legislation before us today is the result of numerous meetings and discussions in which my colleague from Oregon (Mr. Packwood) and I have been involved with Senators Church and McClure. S. 2233 has been the subject of field hearings in both La Grande, Oregon and Lewiston, Idaho, as well as hearings here in Washington. It has been carefully considered by the Parks and Recreation Subcommittee and the full Senate Interior Committee. I believe the bill has been examined by all interested parties and that we must now resolve the issues relating to the future disposition of Hells Canyon and the surrounding area.

Two major issues are addressed by this legislation: dam construction and land use. In prohibiting the construction of dams or other water resource facilities within the area, we are recognizing that environmental values cannot be disregarded in our attempt to provide additional energy. I believe that our decision is in the best long term interests of the citizens of the Pacific Northwest and of the nation. Rather than convert the deepest gorge in the Pacific Northwest into a reservoir, we must fully develop the potential of existing hydroelectric projects. Congress has appropriated funds for this purpose and the Senate has passed legislation to put the Bonneville Power Administration on a self-financing program. Enactment of this bill will virtually guarantee that the BPA will be able to fulfill its responsibilities in helping to meet the growing energy needs of the Northwest in the next two decades and beyond. In addition to these efforts, we must move to develop the vast geothermal energy resource of the Northwest, as well as other potential supplies. Prohibition of dam construction on the Middle Snake River is a recognition of the best use to which this area can be put, which is the opportunities for recreation and spiritual renewal which are offered by this unique and exciting area.

The issue of how the lands surrounding the Middle Snake River will be managed is of equal importance to the question of dam construction. Since most of the lands within the area are currently managed by the Agriculture Department's Forest Service, we have directed the Secretary of Agriculture to develop a comprehensive management plan for the area within 5 years of the enactment of this Act. While recreation will be the primary use of the area, grazing and timber harvest can also take place, since these activities can be compatible with recreation.

In addition to some "instant wilderness" within the rim of Hells Canyon, the Lord Flat-Somers Point and the West Side Reservoir Face areas will be studied specifically for their suitability or nonsuitability as wilderness. The Secretary of Agriculture is also directed to conduct a detailed study of the transportation needs within the National Recreation Area. The study of roads and access alternatives should not prejudice the full study and consideration of wilderness along the rim, just as the wilderness study provision should not prejudice the full study of transportation needs. Our intention is to insure that all wilderness and access alternatives are given equal consideration before final decisions are made.

One important concern of many individuals owning lands within the boundaries of the National Recreation Area is that of condemnation. Section 9(b)(2) of this bill actually restricts the power of the government to acquire fee simple title without the consent of the owner. I believe each of us who has worked on this legislation shares the view that condemnation should be kept to the absolute minimum. When it is necessary to acquire private lands, or an interest in them, negotiations between the owner and the government should take place instead of condemnation. If no agreement can be reached, and acquisition of an interest in the land in question seems imperative to the protection of the area, then condemnation for the purpose of obtaining a scenic easement is encouraged.

All four Senators from Oregon and Idaho have worked hard to produce a bill which all of us can support. We have such a bill in S. 2233, and I urge the Senate to adopt it.

In addition, I am hopeful that the House of Representatives will act quickly to approve legislation to protect Hells Canyon. I have had the opportunity to work with Congressman Al Ullman, who represents the district which includes the Oregon side of this National Recreation Area, on this issue and he has introduced H.R. 2624, which is similar to the bill the Senate is considering today. There are some differences between the two bills, but I am confident that they can be resolved.

It has been a rewarding experience to work with Senator Church, Senator McClure, Senator Packwood, and Congressman Ullman on this important legislation, and I hope that this Congress will see the enactment and signing into law of legislation to protect the Hells Canyon Area.

Mr. CHURCH. Mr. President, I would like to say, in that connection, that I am personally most grateful to my colleague, Senator MCCLURE, and to the two distinguished Senators from Oregon—I see Senator PACKWOOD in the Chamber—for the cooperation that they have extended in effort to fashion a bill that could have and, indeed, does have, so large a measure of public support in both States. It was Senator PACKWOOD who first proposed the creation of a special management plan for the Hells Canyon region of the river, and I think that the concerted efforts of the four Senators, over the past many months, have now brought that dream closer to reality.

I hope today that the Senate will enact this legislation so the House may have an opportunity to consider such action as it may choose to take before the close of this session.

Mr. HASKELL. Mr. President, I rise today in opposition to S. 2233.

This position has not been an easy one for me. I do believe that the Hells Canyon area is an extraordinary natural wonder and that its land and the waters of the Snake and Rapid Rivers merit the best form of protection we can give them. Surely, we must face up to our responsibility to provide that protection so that future generations can marvel at the scenic wonders the area so liberally offers to us. I also wish to express my appreciation to the four Senators from Idaho and Oregon who, as cosponsors of this proposal, have assumed the burden of leadership for us in meeting this responsibility. I most particularly wish to commend my colleague, the senior Senator from Idaho, for his untiring efforts on behalf of this bill and over the years in attempting to put this particular legislative package together.

S. 2233 is the culmination of his long, unstinting, and often lonely fight to preserve the uncluttered landscape and free-flowing waters of this area.

My opposition to S. 2233 thus does not relate to its purpose—which is a proper and, indeed, noble one—but to the manner in which that purpose would be effected.

It is my firm belief that the provisions of this bill in designating, and providing management mandates for, two national forest wilderness areas and segments of two rivers as wild and scenic rivers, may be establishing wilderness and wild and scenic river policy contrary to that embodied in the law and practiced by the Senate Interior Committee and the Senate as a whole. Of course, if enacted, this bill would, as to the particular lands affected, amend the Wilderness Act and the National Wild and Scenic Rivers Act and might indicate an official change in committee and congressional policy. I believe, however, that the precedents this bill would set would do severe damage to the future of the national wilderness preservation system and the National Wild and Scenic Rivers System. But, Mr. President, preservation of the Hell's Canyon area is so critical a task that I for one would assume such a risk did I believe it necessary; but I believe it is not.

Yesterday, I addressed a letter to Chief Forester John R. McGuire, U.S. Forest Service, posing questions to him which I felt were not adequately responded to during the Interior Committee's markup of this bill. I ask unanimous consent that this letter be printed in the RECORD at the conclusion of my remarks.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

(See exhibit 1.)

Mr. HASKELL. Although there has not been time for a formal response to this letter, I have received information from the Forest Service which troubles me deeply.

Mr. President, contrary to actions of the Interior Committee of this very Congress, S. 2233 designates "instant" wildernesses and "instant" wild and scenic rivers in the absence of the intensive studies concerning their suitability for designation provided for in the Wilderness Act and the Wild and Scenic Rivers Act. We do not have either the study reports of the Department of Agri-

culture or the recommendations of the President on these areas and rivers.

During committee markup, my colleagues from Idaho hastened to reassure me that we were not, however, legislating in the dark for these areas and rivers have been studied extensively despite the absence of official wilderness and wild and scenic river studies. I submit that if we are not asked to cast our votes in darkness, it is at best only the dimmest of light. These alternative studies are wholly inadequate.

In the past, the junior Senator from Idaho and ranking minority member of the Public Lands Subcommittee on which I serve as chairman, has adamantly required that, before we designate a wilderness, a full-fledged U.S. Geological Survey-Bureau of Mines Mineral Survey be conducted in a proposed wilderness area and the report be submitted to Congress together with the official wilderness study and the President's recommendations. He has scrutinized those reports to determine what minerals we may be including in wilderness; and he has expressed concern over the inadequacy of the methodology employed in the USGS–Bureau of Mines surveys.

When I raised the question of an official mineral survey in committee markup I was surprised to learn that my colleague was cosponsoring a bill which designates two instant wildernesses in which no official mineral surveys have been conducted. My colleague suggested that numerous other mineral studies had been conducted in the area.

Mr. President, despite these reassurances, the fact is only one-fourth of the two wilderness areas has received any significant mineral study. The Idaho Bureau of Mines, in 1954, conducted a generalized study and, in 1974, published a Synopsis of Mineral Reconnaissance Examination" for the Seven Devils Region. This area is the south half of the wilderness on the Idaho side. According to the Forest Service, no similar work has been done on the north side of the Idaho wilderness or in the Oregon wilderness. Oregon State is presently developing a geologic map of the entire area but this is not a mineral evaluation. Aside from this work, there are only limited mineral studies, conducted in conjunction with water resource proposals, of the channels and shores of the two rivers, outside of the two wilderness areas.

This is not all the information we should have on proposed wilderness areas before we designate them as components of the national wilderness preservation system. On other legislation designating wilderness areas the junior Senator from Idaho has asked and I have had staff be prepared to provide him with figures on the acre-feet of commercial timber; percentage of allowable cut involved; extent, nature, and value of inholdings, with particular focus on mining claims; and roads, timber cutting, or other development, in the wilderness areas. Without official wilderness studies on S. 2233's wilderness areas, much of this information was not available to the committee. I have had to ask for it in my letter to the chief forester.

We also have no official wild and scenic river studies. And, again although my colleagues from Idaho have asserted that alternative studies exist, we have clear and convincing evidence that they are inadequate. Mr. President, section 4(a) of the Wild and Scenic Rivers Act specifically requires that the Secretary of Agriculture provide information on the "current status of land ownership and use in the area." This is not an obscure requirement, it is the second item in a short list of requirements.

Mr. President, when the Senate Interior Committee has acted to designate other wild and scenic rivers—particularly the lower St. Croix and Chattooga Rivers—this most basic piece of information was part of the administration's reports which were made available to the committee well before the final markup sessions on the proposals. Yet, this information was not even known to the committee members when S. 2233 was reported from the Subcommittee on Parks and Recreation.

After the subcommittee reported the bill, the committee chairman had to write to the chief forester and ask him for the basic data on percentage of private property along the wild and scenic rivers. This information was supplied to the committee only a day or two before ful committee markup of S. 2233. Mr. President, I reiterate, if we had first placed these rivers in the study category, we would have had this information well before any consideration would be given to designating them as wild and scenic rivers.

My colleagues are correct in noting that alternative studies have been made of the rivers in connection with water resource projects. They say these have been exhaustively studied as a prelude to the numerous water resource projects' proposals. I do not know if these studies fully coincide with and cover the entire length of each river segment designated as components in the Wild and Scenic River System by S. 2233. I do know this, however: Such studies are not substitutes for official wild and scenic river studies. Mr. President, earlier this Congress, the Senate passed S. 2439 to direct a wild and scenic river study be conducted on a segment of the New River.

Some of my colleagues argued that the river should be immediately designated as a wild and scenic river, rather than studied. Certainly, no river segment has been more exhaustively studied from a water resource project standpoint. The Federal Power Commission has conducted 9 years' worth of studies and hearings on the Blue Ridge project proposal. Yet this committee firmly held that a water resource project study—even with an impact statement analysis of alternative uses, including preservation of the river in a freeflowing state—cannot substitute for a wild and scenic river study. We instead required that the river be studied under the Wild and Scenic Rivers Act before congressional consideration could be given to its designation as a component of the system. The policy we set in S. 2439, we now reject in S. 2233.

Mr. President, this is what concerns me. This session alone our committee has altered bills sponsored by a half dozen of my colleagues calling for "instant" designation of wild and scenic rivers and, instead, required that the rivers be studied first. In addition, my Subcommittee on Public Lands has refused to designate wilderness areas in the States of Utah and California because no official wilderness study or USGS-Bureau Mineral Survey had been conducted on those areas. In S. 2233, we ignore our position taken in relation to proposals of Senators not on the Interior Committee.

S. 2233, in addition to failing to follow the study procedures set out in the Wilderness Act and Wild and Scenic Rivers Act, sets out a number of management provisions contrary to both those laws. In briefest form, I will describe the differences.

These exceptions concern the designation of river corridor boundaries, treatment of mining in the river corridors and the wilderness areas, use of upstream waters, condemnation in the river corridors and wilderness areas, exchange of lands with the States, and control of hunting and fishing in the wilderness. Mr. President, in the interest of time I will submit to be printed in the RECORD at the conclusion of my remarks excerpts from a memorandum on public lands roughed-out for me from subcommittee counsel the morning of full committee markup of S. 2233. This memorandum discusses these policy exceptions.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. (See exhibit 2.)

Mr. HASKELL. My colleagues from the State of Idaho made persuasive arguments that all these exceptions to existing law and congressional policy were required because of a unique set of circumstances in the Hell's Canyon area. In addition, the senior Senator from Idaho argued that there was precedent for these exceptions in other national recreation area laws. This is, in fact, what concerns me.

With all due deference, I would like to remind my colleague that the precedent is not strong. There is only one law creating a national recreation area in a national forest—the Sawtooth area in Idaho.

This law does designate wilderness and contains a number of provisions relating to wilderness which now appear in S. 2233. However, it did not establish a wild and scenic river and there is no precedent for the exceptions to existing policy on wild and scenic rivers found in S. 2233.

My concern, however, is focused on the fact that the Sawtooth Act is now cited as precedent for S. 2233. And yet the unique provisions in the Sawtooth Act were once argued for on the basis of necessity bred of unique circumstances. How soon will the unique circumstances requiring S. 2233's language be forgotten in efforts to employ that language as precedent to justify similar provisions in future legislation?

Mr. President, I stated at the outset that I support the purpose of this bill.

I believe that purpose can be served by deleting the wilderness and wild and scenic river designations and setting forth the river segments and areas in study categories. The Wilderness Act and Wild and Scenic Rivers Act would provide complete protection to the potential wilderness areas and wild and scenic rivers during the study period. In the alternative, we could simply have a national recreation area without wilderness or wild and scenic rivers and, instead provide the required management mandate to protect those areas and rivers. Those mandates would then remain peculiar to that one national recreation area.

In conclusion, Mr. President, and despite all I have said, I would like to compliment the senior Senator from Idaho particularly on developing this legislative package. I personally, as I have said, feel that from a precedent viewpoint we should have proceeded differently. But, nevertheless, the number of years that the senior Senator has worked on this problem, and the imagination and intelligence that he has brought to bear in putting this bill together—and the unique quality of the Hells Canyon area which must be preserved—all lead me to compliment him very highly.

Mr. President, although I oppose this bill for the reasons stated, I will not call for the yeas and nays for two reasons. The first, very practical reason, is that the land is in Oregon and Idaho, and the Senators from Oregon and Idaho are for it.

But more importantly, even if I felt that I did at this point have the necessary votes to block this bill, I think it would be a mistake to do so because of the urgent need for its passage to protect the area which the senior Senator from Idaho has so forcefully outlined for us.

I yield the floor.

EXHIBIT 1

WASHINGTON, D.C., *September 25, 1974.*

HON. JOHN R. MCGUIRE,
Chief, Forest Service,
U.S. Department of Agriculture,
Washington, D.C.

DEAR CHIEF MCGUIRE: On September 23, 1974, the Committee on Interior and Insular Affairs ordered reported S. 2233, the Hell's Canyon National Recreation Area Act. Although S. 2233 was originally considered in the Parks and Recreation Subcommittee, because its subject matter is also within the jurisdiction of the Subcommittee on Public Lands, on which I serve as Chairman, I have taken a particular interest in the measure. I am concerned that, in designating two national forest wilderness areas and segments of two rivers as wild and scenic rivers, this bill may be establishing wilderness and wild and scenic river policy contrary to that embodied in the law and practiced by the Committee.

At my request, Counsel to the Public Lands Subcommittee raised several questions in this regard at the September 23, 1974 mark-up session. Unfortunately the responses did not fully answer my concerns. Therefore, I would hope you might provide me with answers to the following questions:

(1) Have full-fledged wilderness studies been conducted by the Forest Service on the two "instant" wilderness areas? If so, when were the President's recommendations submitted to Congress; what was their substance; and how do they compare with the final boundaries of the wilderness areas designated by S. 2233?

(2) If no wilderness studies were conducted were these areas ever primitive areas or have they ever been classified as a result of a full-fledged planning process including local public hearings in any management category providing for their management as *de facto* wilderness?

(3) Have official USGS-Bureau of Mines mineral surveys been conducted on the two areas and have the resulting reports been published or submitted to Congress?

(4) If no such studies have been completed, what other mineral surveys have been conducted in the two areas? Where were these surveys conducted and what percentage of the land in the two areas did they encompass? How detailed (field surveys? core samples?) were these surveys? Were they more or less intensive than the standard USGS-Bureau of Mines survey?

(5) Are there any inholdings? If so, what are their sizes; how developed are they; and what is their estimated value? In particular, please relate these questions to any mining patents or claims.

(6) Is there timber of commercial value in the two areas? If so, what is its estimated board feet and what percentage of allowable cut of the national forest does it constitute?

(7) Are there any existing or proposed roads in the two wilderness areas? If so, where are they located and what is their condition?

(8) Has there been any timber cutting in the two areas?

(9) Have official wild and scenic river studies been conducted on the segments of the Snake and Rapid Rivers which, under S. 3022, would enjoy instant wild and scenic river status? If so, when were the President's or your recommendations submitted to Congress; what was their substance; and how do they compare with the final boundaries and management categories designated by S. 2233? (If the studies were completed, then I am particularly concerned about the method of their transmittal to Congress. I note, for example, that even after the bill was reported from Subcommittee a question was posed to you by the Committee concerning the percentage of private land in the corridors of the river segments. Yet, the second item on which you are required to report by section 4(a) of the Wild and Scenic Rivers Act is the "current status of land ownership and use in the area." Clearly, in the past when the Public Lands Subcommittee and the full Committee have acted to designate components of the wild and scenic rivers system (Lower St. Croix River Act, 86 Stat. 1174, and the Act of May 10, 1974, 88 Stat. 122) this most basic piece of information was part of the Administration's reports which were made available to the Committee well before the final mark-up of the proposals.)

(10) If no official studies have been conducted, what portions of the river segments have been fully studied for their value in a free-flowing state and by what agencies? How do these studies compare to the wild and scenic river studies which the Forest Service conducts?

(11) Could you also please provide responses concerning mineral surveys, inholdings, mining rights, development, and timber values for the wild and scenic river segments similar to those which you provide for the two wilderness areas?

I urge you to provide these answers as promptly as possible. The bill may be called up for debate within the next several days.

Sincerely,

FLOYD K. HASKELL,
Chairman,
Subcommittee on Public Lands.

EXHIBIT 2

WASHINGTON, D.C., *September 11, 1974.*

MEMORANDUM

To: Senator Floyd K. Haskell.
From: Steven P. Quarles (By Dictation).
Re: S. 2233, the Proposed Hell's Canyon Recreation Area bill: A Strong Departure from Existing Policy.

* * * * *

You also asked me to outline briefly the numerous, major exceptions to the Committee's wild and scenic river policy and the Committee's wilderness policy which S. 2233 would establish.

B. WILD AND SCENIC RIVER POLICY EXCEPTIONS

The Act would provide five major exceptions to the Wild and Scenic Rivers Act.

First, the Act would designate "instant" components of the wild and scenic river system without proceeding first through the statutorily mandated process of studying their "potential" for addition to the system. Of course, by skipping the study process established in the original Act, we have much less information as to mineral values, alternative uses of the river, ownership patterns, costs of administration, etc. You will recall that this session the Subcommittee on Public Lands turned down attempts by several Senators to create "instant" rivers without first subjecting the rivers to study.

Second, the lack of a study and the information it would generate is made more dramatic by S. 2233's provisions withdrawing the area from the operation of the mining and mineral leasing laws. As you know, the Wild and Scenic Rivers Act clearly allows mining on all wild and scenic rivers with a minor exception for a narrow corridor along wild rivers.

Third, of particular concern to me is the possible value of the precedent of the third exception. This exception would prohibit the averaging of distances to determine corridor boundaries. As you know, the original Wild and Scenic Rivers Act provides for river corridors the boundaries of which include an average of not more than 320 acres per mile on both sides of each river. The Hell's Canyon bill, on the other hand, removes this flexibility in designating the boundaries (a flexibility which has been of great assistance in providing river protection) from the Secretary of the Interior or the Secretary of Agriculture and instead declares a uniform corridor along all of the segments of the two rivers. Clearly, this exception to the original Act will generate plenty of pressure to make this boiler plate language for future bills designating wild and scenic rivers.

Fourth, in my mind, *the most troubling* exception to the Wild and Scenic Rivers Act concerns the use of upstream waters. Subsections 6(a) and (b) of S. 2233 provide that nothing in the Wild and Scenic Rivers Act or S. 2233 shall be construed as in any way (1) limiting use of the present or future use of upstream waters, whether consumptive or non-consumptive, and (2) imposing flow requirements. The two Secretaries have always interpreted the original Act to provide them at least a measure of authority over both matters. In effect, this provision could be a built-in time bomb which, in a few short years, could result in the destruction of the wild and scenic river characteristics of the two rivers. This provision contains the unfortunate potential of serving as a particularly significant precedent for future legislation.

Fifth, the bill also appears to provide a number of new limitations on, and expansions of, the Secretary's authority to acquire land within wild and scenic river corridors. For example, exchange of lands with a State (Idaho) is permitted. As you will recall, earlier this year Senator McClure objected to an amendment to the Wild and Scenic Rivers

Act which would have allowed land exchanges with the State as a general land acquisition practice in the wild and scenic rivers system. Furthermore, the Act limits condemnation to only 5% of the total acreage which is privately owned within the recreation area. This is clearly contrary to the condemnation formula in the Wild and Scenic Rivers Act.

* * * * *

C. WILDERNESS POLICY EXCEPTIONS

Many of the exceptions to established Wilderness policy are similar to the wild and scenic river policy exceptions discussed above.

1. As above, there has been no study of the proposed wilderness areas. Among other things, this means that no official mineral survey reports have been filed with this Committee.

2. Clearly, the lack of study gains additional importance in light of this 2nd exception. This exception would immediately withdraw the Wilderness areas from the operation of the mining laws and from disposition under the mineral leasing laws. As you will recall, the Wilderness Act would allow the continued operation of these laws until January 1, 1984.

3. S. 2233 would allow limited condemnation within a wilderness area contrary to the provision of the Wilderness Act which prohibits the use of condemnation authority within the wilderness system.

4. Whereas the Wilderness Act specifically provided that jurisdiction for hunting and fishing would remain with the States, S. 2233 provides the Secretary with authority to specifically control hunting and fishing. . . .

Mr. CHURCH. Mr. President, first of all, I want to thank the distinguished Senator from Colorado for the generosity of his remarks. I understand the reasons why he has pressed his case as he has this morning.

Senator HASKELL is the chairman of the Subcommittee on Public Lands of the Committee on Interior and Insular Affairs. His subcommittee has jurisdiction over both the Wilderness Act and the Wild and Scenic Rivers Act. He is quite right to raise questions concerning the procedures which should govern the addition of new land to the wilderness system or new rivers to the wild and scenic rivers system. I have no quarrel with him on that score.

I was, many years ago, the floor manager of the original Wilderness Act in the Senate. I am the author of the Wild and Scenic Rivers Act. As a consequence, I am fully conversant with the procedures called for in those two bills, I do not debate the fact that if we were confronted here with the simple question of whether or not this particular last remaining undeveloped segment of the great Snake River, flowing through the deepest gorge on the North American Continent, Hells Canyon, should be included as a part of the national wild-rivers system, then all those procedures set out in the underlying act should be fully observed.

Likewise, if the question were whether or not the designated areas on the inner face of the Hells Canyon should be incorporated into the national wilderness system, I would not only agree with the Senator, but I would also stand with him in insisting that the regular procedures set out in the Wilderness Act be followed.

But I suggest to the Senator that we have, in the pending bill, something quite different from either adding to the Wild and Scenic Rivers System or adding to the wilderness system. This bill creates a national recreation area. Whenever the Congress, in the past, has undertaken to enact authorizing legislation to create a national recreation area, it has done so with a separate bill, which lays out a general management plan, the elements of which extend far beyond designating the rivers or the wilderness sectors of the proposed area.

In other words, creating a national recreation area, I submit, is not unlike a bill authorizing the creation of a national park. To be sure, the management plan is of a different kind, but national recreation areas are sometimes referred to as the Forest Service's answer to the National Park System.

Earlier in the distinguished Senator's remarks, he referred to the passage of the Sawtooth National Recreation Area. It is true that certain exceptions were made in that bill to the normal procedures with respect to adding areas to the National Wilderness System. But these exceptions were made only because the wilderness part of the national recreation area created by the bill was just one segment which had to fit into a general management plan.

I believe strongly that this bill does conform to the precedents, insofar as they relate to the creation of national recreation areas, which is the purpose of the bill. It is in this context that I feel that the objections raised by the distinguished Senator from Colorado are not sufficiently well-grounded to justify a decision by the Senate against this legislation.

I assure the Senator that, in the future, whenever the question has to do simply with adding to the wild rivers system or adding to the wilderness system, I will support him in his insistence that the regular procedures set up in the law for that purpose be observed. But, in connection with this bill, we are doing much more than creating new wilderness or creating new wild rivers. The bill encompasses the entire region. It creates a national recreation area. Even though part of it may be "instant" wilderness, that is precedented in earlier bills of this kind. Even though two rivers are designated as wild rivers, they are directly related to the national recreation area, itself.

Moreover, with respect to the Snake River, at least, the administration approves of the designation and supports it.

So I hope, Mr. President, that the Senate will see fit to support the bill. I do not want to belabor the matter any further with the distinguished Senator from Colorado. I think he understands my position, as I understand his.

I know that my colleague wishes to speak, as does the Senator from Oregon. However, I do hope that the Senator understands that I see a definite distinction between creating a national recreation area and simply adding new segments to the national wild river system or to the national wilderness system.

Mr. HASKELL. Mr. President, I appreciate the remarks and I appreciate the position of the distinguished Senator from Idaho. I merely feel that it was important to get on the record the matters that we have discussed.

Again I say to the distinguished Senator from Idaho that this is such an important national resource that even should I feel that I had adequate votes to block the bill, I would not do so. It would be tragic to have a dam and a powerplant inundate this area before we could protect it.

Again, I congratulate the senior Senator from Idaho on his imagination and vision.

Mr. CHURCH. I appreciate the Senator's remarks.

Mr. PACKWOOD. Mr. President, there are a variety of ways to make a record and to study an issue. So far as Hells Canyon and the Snake River are concerned, this has been a paramount issue in the Northwest for the last 20 years, at a minimum. It was the principal political issue in the Oregon senatorial election in 1956 and in the congressional district involving the district adjacent to the Snake River in 1956.

The Federal Power Commission licensed the dam in Hells Canyon in 1964, and that was subsequently overturned by the Supreme Court.

I think it is fair to say that there is no plot of land—if this great acreage can be referred to as that—that has been so studied and restudied and debated and redebated by power groups, by environmental groups, and by every conceivable type of organization that has an interest.

Even if we have not made what might be regarded as the formal record before the appropriate committees of the Senate—and I think we have—this issue has been studied for so long that the proposed legislation does not do violence to any Senate or House procedure which would require further study.

Mr. President, this is indeed a momentous event. After years of struggle, the Senate is today passing legislation to preserve forever, in a natural state, the yet-free-flowing Middle Snake River which runs through the deepest gorge on the North American continent. This is the last stretch of the Snake River free of impoundments, the last remaining stretch which can offer us a recreation and wilderness experience and the solitude of eons past.

Mr. President, I would like here to briefly recount the history of our struggle to protect the Middle Snake from dams and the adjacent lands from commercial and residential development.

In 1964 the Federal Power Commission granted the Pacific Northwest Power Co. a license to build the High Mountain Sheep project. The license was appealed to the U.S. court of appeals, which affirmed the FPC decision in 1966. The matter then went to the Supreme Court, and in a decision on June 5, 1967, the Court remanded the project to the Federal Power Commission for further consideration. In January 1970, I introduced for the first time a Hells Canyon/Snake National River bill. On May 5, 1970, the Senate passed an 8-year moratorium on dam construction, although the House took no action on this measure which was introduced by Senator CHURCH. In

September of 1970, the Secretaries of the Interior and Agriculture recommended that portions of the Middle Snake in Hell Canyon be studied for inclusion in the National Wild and Scenic Rivers System. On February 1, 1971, Senators CHURCH and JORDAN reintroduced their moratorium bill which died with the 91st Congress because of no action in the House. On February 10, 1971, I again introduced my Hell Canyon/Snake National River bill.

Once again, no action was taken past hearings. After many hearings transcripts and several unsuccessful attempts to get protective legislation enacted, the two Senators from Oregon, Senator HATFIELD, and me, and the two Senators from Idaho, Senators CHURCH and MCCLURE got together and drafted legislation satisfactory to us and the many divergent interests who all held the common view that there should be no more dams constructed on the Snake River and that the Middle Snake should be maintained in a free-flowing state once and for all.

The culmination of all this is now to be Senate passage of a very fine piece of legislation, legislation which resulted from lengthy deliberations among many divergent forces. We have brought together, from opposite ends of the political spectrum, an impressive list of individuals and groups who all hold the common view that the Middle Snake should be preserved for all time for the enjoyment of present and future generations. The legislation before us is an embodiment of the ideas of many people looking toward a common goal, and I am hopeful that House action will follow quickly upon the Senate action today.

Already a subcommittee mark-up has been scheduled for October 8 on the House version of the Hells Canyon bill introduced by Congressman ULLMAN, my colleague from Oregon. I remain confident that differences between the Senate and House versions will be easily resolved. Already we are so close in our respective measures that there is every reason to believe all our earlier efforts will culminate this year in enactment of the Hells Canyon/Snake River legislation.

The measure before us today will establish the Hells Canyon National Recreation area in the States of Idaho, Oregon, and Washington. The 101-mile segment of the Snake River between Hells Canyon Dam in Idaho and Asotin, Wash., will become a component of the National Wild and Scenic Rivers System and the construction of dams on that stretch of the river will be prohibited for all time. In addition, the Asotin Dam in Washington is deauthorized.

Approximately 25 miles of the Snake River would be classified as "recreational," 45 miles as "scenic," and 30 miles as "wild." The Rapid River in Idaho, from the headwaters of the main fork to the present national forest boundary and from the headwaters of the west fork to its confluence with the main stem of the Rapid River is designated a wild river.

In addition, a national recreation area is established in Oregon and Idaho comprising approximately 700,000 acres, including a Hells Canyon Wilderness Area of approximately 270,000 acres. Within 5 years from the date of enactment of this act, the Secretary of Agriculture shall develop a comprehensive management plan for the recreation area providing for a broad range of land uses and recreation opportunities.

The Secretary is further directed to review certain areas within the national recreation area in Oregon for their Wilderness potential. Two areas in Oregon are specifically identified to be studied as to their suitability or nonsuitability as wilderness. These are the "Lord Flat-Somers Point Plateau Wilderness Study Area" and the "West Side Face Wilderness Study Area." While only two areas are specifically identified for wilderness study, the Secretary of Agriculture is not precluded from recommending other areas within the recreation area for inclusion within the Wilderness System.

The legislation limits the Secretary's acquisition authority to no more than 5 percent of the total privately owned land within the recreation area, although the Secretary may acquire scenic easements without the consent of the owner if such lands are being used, or are in imminent danger of being used, in a manner incompatible with the purposes of this act.

Under this legislation, there is authorized to be appropriated approximately $81,500,000 for the improvement of existing roads, for acquisition of lands, for the development of recreation facilities and visitor centers, and for inventory, identification, development, and protection of historic and archeological sites.

Mr. President, the importance of our action today in passing this bill cannot be overemphasized. We have reached another milestone toward enactment of legislation to protect once and for all the last free-flowing segment of the Snake River and adjacent lands. We now have an opportunity to save a truly unique area of this country so that it may continue to be enjoyed by future generations. In enacting this measure we will have met the issue head-on and will have made a decision in the best interests of present and future generations.

Mr. McCLURE. Mr. President, today the Senate is considering a bill (S. 2233) to establish the Hells Canyon National Recreation Area in the States of Idaho, Oregon, and Washington. This is a unique approach which attempts to meld a variety of uses, as well as to provide appropriate protection, to the deepest gorge on the North American continent. In my opening statement on July 23, 1973, when Senators CHURCH, HATFIELD, PACKWOOD, and myself introduced S. 2233, I noted the 25 years of political controversy over Hells Canyon which began with spirited debates over dams or no dams, high versus low dams, and the ultimate decision to build Brownlee, Oxbow, and Hells Canyon Dams.

In further review, I noted that my objectivity over this legislation was necessarily clouded by my deep affection for this area that was so much a part of my youth. The hills, streams, pastures and forests that make up the area form a worthy legacy for future generations of Idahoans, as well as all Americans. This bill provides appropriate opportunities for continuing the economy of the area through providing for judicious use of natural resources. At the same time the bill protects the free flowing state of the Snake River from Hells Canyon Dam to the town of Asotin, Wash.

The mighty Snake, as Senator Len Jordan put it so well, is a working river. The waters that enter the middle reaches of the Snake River below Hells Canyon Dam have already traveled from the western slopes of the Tetons in Wyoming across the entire width of southern Idaho. The sheep and cattle herds, fields of sugar beets and potatoes that make up the Magic Valley of southern Idaho are a proud heritage that testify to the strength of this working river. This river also supports a fish and game population that is the envy of any State. That is why one of the provisions of the bill, section 6, protects the present and future uses of upstream water from any limitation, restriction, or conflict. It further provides that no flow requirements shall be imposed on the waters of the Snake River below Hells Canyon Dam under the provisions of the Wild and Scenic Rivers Act, of this act, or any guidelines, rules, or regulations adopted pursuant thereto.

After contributing to the agriculture, energy, and recreation needs of southern Idaho, the Snake gathers strength as it enters Hells Canyon. Its awsome power is evident in the sculpture of the canyon walls that have been carved by nature through the ages. The wild and scenic rivers provisions of this bill seek to preserve the free flowing state, and at the same time provides for appropriate river use, based on existing uses at the time of enactment.

The bill as introduced has been changed to reflect a serious examination of the input from field hearings as well as hearings in Washington, D.C. This effort has resulted in a bill that protects the Middle Snake River. It does more than that. It protects the options for continued existing uses of our resources while preserving a truly unique American treasure.

Mr. President, my colleague from Idaho, Senator CHURCH, has suggested that if action is not concluded on this legislation in this session of Congress that the Federal Power Commission might license a dam in this section of the Snake River. I am sure that any such action would be challenged in the courts and that such challenge would take some considerable time. Before any such action might become final, I will join in moratorium legislation to block that action until this matter can be resolved.

Mr. President, the junior Senator from Colorado has raised questions about this bill which I think are necessarily raised and proper; but at the same time that he raised the questions indicating his opposition to the proposed legislation, he also said that it is such a unique opportunity to move that we ought to move in spite of his objections. That, of course, is precisely why we have taken the action we have in regard to the passage of this measure.

I fully agree with my senior colleague from Idaho that this kind of legislation, in the creation of an overall management plan for an entire region, is an exception to the general rules of specific wilderness or scenic river bill application. This area has been studied. If they can point to another area such as this that has had the kind of study this has had over the last quarter of a century, in which matters relative to it have gone to the Supreme Court on two different occasions and have been remanded for further study, then I think, indeed, we can see that there is an adequate basis upon which to move.

Mr. President, I wonder whether my colleague from Idaho will agree with me that we are fully mindful of the fact that this wild and scenic river segment is not the upstream segment of the river but downstream from other sections which are already being put to use and which may, in the future, be put to use, and that we try to protect the options of the State of Idaho and its citizens in making further application for the use of those areas upstream.

Mr. CHURCH. Yes, indeed, I fully agree with by colleague on the question of protecting upstream water rights.

I think the reluctant provision of the bill ought to be included at this point in the RECORD, and I ask unanimous consent that sections 6 (a) and (b) of the bill be printed at this point in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SEC. 6. (a) No provision of the Wild and Scenic Rivers Act (82 Stat. 906), nor of this Act, nor any guidelines, rules, or regulations issued hereunder, shall in any way limit, restrict, or conflict with present and future use of the waters of the Snake River and its tributaries upstream from the boundaries of the Hells Canyon National Recreation Area created hereby, for beneficial uses, whether consumptive or nonconsumptive, now or hereafter existing, including, but not limited to, domestic, municipal, stockwater, irrigation, mining, power, or industrial uses.

(b) No flow requirements of any kind may be imposed on the waters of the Snake River below Hells Canyon Dam under the provisions of the Wild and Scenic Rivers Act (82 Stat. 906), of this Act, or any guidelines, rules, or regulations adopted pursuant thereto.

Mr. CHURCH. A reading of this language, which was supplied, incidentally, by the counsel for the Idaho Water Users Association, should make it evident that every possible protection has been given statutory language can confer on the upstream water users, not only with respect to existing water rights but with respect to future diversions as well.

Furthermore, the language makes it equally clear that no flow requirements of any kind may be imposed on the waters of the Snake River below Hells Canyon Dam—that is to say, in the area covered by the bill, as a consequence of the enactment of this legislation. So we have undertaken to protect upstream water users in every way possible.

I think it can be said accurately that this bill extends protection to upstream water users as completely as it can be done in statutory form.

Moreover, I believe that this is the first time, in connection with any Federal statute, that such express protection has been conferred. It follows, I submit, that the upstream water users are better off with the protective language in this bill than they are today without the benefit of such language in any Federal law.

I invite the comment of my colleague on this score.

Mr. McCLURE. Mr. President, I fully agree with the comments that have been made by my colleague from Idaho. I think it is worthy of note that this matter has been fully discussed in all of the many hearings that have preceded the passage of this legislation, and that the record of the field hearings, of the hearings in Washington, of the executive sessions of the subcommittee and of the full committee, are full of references of the absolute necessity for the protection of the rights of the upstream water users, both present and future, under the State laws of the State of Idaho.

I think any look at the economy of Idaho would have to recognize the importance of the consumptive use of water. Idaho is one of the leading States in the Nation in acreage of irrigated farmland. In the Snake River Plain of southern Idaho, we now irrigate something like 3 million acres of land. We have, in addition, millions of other acres that may be subject to irrigation in the future. As a matter of fact, a limiting factor on the development of additional irrigated farmlands is the availability of water, not the availability of land.

People who are acquainted with the tremendous productive capacity of that desert land when it is subjected to irrigation must also recognize how little it produces without the water. As a result, the people of Idaho have always been sensitive to the demands upon the river and the protection of the water rights that are essential to the welfare of the State and its people.

The water rights were being protected prior to the time that the State of Idaho was created. There was an informal arrangement, in much the same way that the miners in California in 1849 had protective arrangements for their claims to mining land, prior to the time that there was any organized territory of the State of Idaho.

I recite that history only because it underscores the intense dedication of the people of Idaho to the protection of the uses of their water and the right to determine their own future. This kind of protection is reflected in the language of this bill so far as it is possible to write into legislation. I thank my colleague from Idaho for his contribution on this particular aspect of this legislation and the legislative history which surrounds it.

Mr. CHURCH. I thank the distinguished Senator very much, not only for his closing remarks but for the whole effort he has made to help fashion this legislation, to help steer it through the committee, and to bring it to the Senate floor for action this morning. I wish to express my personal gratitude to him.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment.

The committee amendment was agreed to.

The ACTING PRESIDENT pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

The ACTING PRESIDENT pro tempore. The bill having been read the third time, the question is, Shall it pass?

The bill (S. 2233) was passed, as follows:

S. 2233

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) to assure that the natural beauty, and historical and archeological values of the Hells Canyon area and the one hundred and one and four-tenths mile segment of the Snake River between Hells Canyon Dam in Idaho and Asotin, Washington, together with portions of certain of its tributaries and adjacent lands, are preserved for this and future generations, and that the recreational and ecologic values and public enjoyment of the area are thereby enhanced, there is hereby established the Hells Canyon National Recreation Area.

(b) The Hells Canyon National Recreation Area (hereinafter referred to as the "recreation area"), which includes the Hells Canyon Wilderness Areas (hereinafter referred to as the "wilderness areas"), the components of the Wild and Scenic Rivers System designated in section 3 of this Act, and the wilderness study areas designated in subsection 8(d) of this Act, shall comprise the lands and waters generally depicted on the map entitled "Hells Canyon National Recreation Area" dated July 1974, which shall be on file and available for public inspection in the office of the Chief, Forest Service, Department of Agriculture. The Secretary of Agriculture (hereinafter referred to as "the Secretary"), shall, as soon as practicable, publish a detailed boundary description of the recreation area, the wilderness study areas designated in subsection 8 (d) of this Act, and the wilderness areas established in section 2 of this Act in the Federal Register.

SEC. 2. (a) The lands depicted as the "Hells Canyon Wilderness Areas" on the map referred to in subsection 1(b) of this Act are hereby designated as wilderness.

(b) The wilderness areas designated by this Act shall be administered by the Secretary in accordance with the provisions of this Act or in accordance with the provisions of the Wilderness Act (78 Stat. 893), whichever is the more restrictive, except that any reference in such provisions of the Wilderness Act to the effective date of that Act shall be deemed to be a reference to the effective date of this Act. The provisions of section 9(b) and section 11 shall apply to the wilderness areas. The Secretary shall make such boundary revisions to the wilderness areas as may be necessary due to the exercise of his authority under subsection 3(b) of this Act.

SEC. 3. (a) The Congress hereby incorporates the Rapid River and the Snake River into the National Wild and Scenic Rivers System in the status listed—

(1) Rapid River, Idaho.—The segment from the headwaters of the main stem to the national forest boundary and the segment from the headwaters of the west fork to the confluence with the main stem, as a wild river.

(2) Snake, Idaho, Oregon, and Washington.—The segment from Hells Canyon Dam downstream to Pittsburg Landing, as a wild

river; the segment from Pittsburg Landing to Dough Creek, as a scenic river; and the segment from Dough Creek downstream to the town of Asotin, Washington, as a recreational river.

(b) The segments of the Snake River and the Rapid River designated as wild, scenic, or recreational river areas by this Act shall be administered by the Secretary in accordance with the provisions of the Wild and Scenic Rivers Act (82 Stat. 906), as amended: *Provided*, That the Secretary shall establish a uniform corridor along such segments and may not undertake or permit to be undertaken any activities on adjacent public lands which would impair the water quality of the Rapid River segment: *Provided further*, That the Secretary is authorized to make such minor boundary revisions in the corridors as he deems necessary for the provision of such facilities as are permitted under the applicable provisions of the Wild and Scenic Rivers Act (82 Stat. 906).

SEC. 4. (a) Notwithstanding any other provision of law, or any authorization heretofore given pursuant to law, the Federal Power Commission may not license the construction of any dam, water conduit, reservoir, powerhouse, transmission line, or other project work under the Federal Power Act (41 Stat. 1063), as amended (16 U.S.C. 791a et seq.), within the recreation area: *Provided*, That the provisions of the Federal Power Act (41 Stat. 1063) shall continue to apply to any project (as defined in such Act), and all of the facilities and improvements required or used in connection with the operation and maintenance of said project, in existence within the recreation area which project is already constructed or under construction on the date of enactment of this Act.

(b) No department or agency of the United States may assist by loan, grant, license, or otherwise the construction of any water resource facility within the recreation area which the Secretary determines would have a direct and adverse effect on the values for which the waters of the area are protected.

SEC. 5. The Asotin Dam, authorized under the provisions of the Flood Control Act of 1962 (76 Stat. 1173), is hereby deauthorized.

SEC. 6. (a) No provision of the Wild and Scenic Rivers Act (82 Stat. 906), nor of this Act, nor any guidelines, rules, or regulations issued hereunder, shall in any way limit, restrict, or conflict with present and future use of the waters of the Snake River and its tributaries upstream from the boundaries of the Hells Canyon National Recreation Area created hereby, for beneficial uses, whether consumptive or nonconsumptive, now or hereafter existing, including, but not limited to, domestic, municipal, stockwater, irrigation, mining, power, or industrial uses.

(b) No flow requirements of any kind may be imposed on the waters of the Snake River below Hells Canyon Dam under the provisions of the Wild and Scenic Rivers Act (82 Stat. 906), of this Act, or any guidelines, rules, or regulations adopted pursuant thereto.

SEC. 7. (a) Except as otherwise provided in sections 2 and 3 of this Act, and subject to the provisions of section 10 of this Act, the Secretary shall administer the recreation area in accordance with the laws, rules, and regulations applicable to the national forests for public outdoor recreation in a manner compatible with the following objectives.

(1) the maintenance and protection of the free-flowing nature of the rivers within the recreation area;

(2) conservation of scenic, wilderness, cultural, scientific, and other values contributing to the public benefit;

(3) preservation, especially in the area generally known as Hells Canyon, of all features and peculiarities believed to be biologically unique including, but not limited to, rare and endemic plant species, rare combinations of aquatic, terrestrial, and atmospheric habitats, and the rare combinations of outstanding and diverse ecosystems and parts of ecosystems associated therewith;

(4) protection and maintenance of fish and wildlife habitat;

(5) protection of archeological and paleontologic sites and interpretation of these sites for the public benefit and knowledge insofar as it is compatible with protection;

(6) preservation and restoration of historic sites associated with and typifying the economic and social history of the region and the American West; and

(7) such management, utilization, and disposal of natural resources on federally owned lands, including, but not limited to, timber harvesting by selective cutting, mining, and grazing and the continuation of such existing uses and developments as are compatible with the provisions of this Act.

SEC. 8. (a) Within five years from the date of enactment of this Act the Secretary shall develop a comprehensive management plan for the recreation area which shall provide for a broad range of land uses and recreation opportunities.

(b) In the development of such plan, the Secretary shall consider the historic, archeological, and paleontological resources within the recreation area which offer significant opportunities for anthropological research. The Secretary shall inventory such resources and may recommend such areas as he deems suitable for listing in the National Register of Historic Places. The Secretary's comprehensive plan shall include recommendations for future protection and controlled research use of all such resources.

(c) The Secretary shall, as a part of his comprehensive planning process, conduct a detailed study of the need for, and alternative routes of, scenic roads and other means of transit to and within the recreation area. In conducting such study the Secretary shall consider the alternative of upgrading existing roads and shall, in particular, study the need for and alternative routes or other means of transit providing access to scenic views of and from the western rim of Hells Canyon.

(d) The Secretary shall review, as to their suitability or nonsuitability for preservation as wilderness, the areas generally depicted on the map referred to in section 1 of this Act as the "Lord Flat-Somers Point Plateau Wilderness Study Area" and the West Side Reservoir Face Wilderness Study Area" and report his findings to the President. The Secretary shall complete his review and the President shall, within five years from the date of enactment of this Act, advise the United States Senate and House of Representatives of his recommendations with respect to the designation of lands within such area as wilderness. In conducting his review the Secretary shall comply with the provisions of section 3(d) of the Wilderness Act and shall give public notice at least sixty days in advance of any hearing or other public meeting concerning the wilderness study area. The Secretary shall administer all Federal lands within the study areas so as to preclude their possible future designation by the Congress as wilderness. Nothing contained herein shall limit the President in proposing, as part of this recommendation to Congress, the designation as wilderness of any additional area within the recreation area which is predominantly of wilderness value.

(e) In conducting the reviews and preparing the comprehensive management plan required by this section, the Secretary shall provide for full public participation and shall consider the views of all interested agencies, organizations, and individuals including, but not limited to, the Nez Perce Tribe of Indians, the States of Idaho, Oregon, and Washington. The Secretaries or Directors of all Federal departments, agencies, and commissions having relevant expertise are hereby authorized and directed to cooperate with the Secretary in his review and to make such studies as the Secretary may request on a cost reimbursable basis.

SEC. 9. (a) The Secretary is authorized to acquire such lands or interests in land (including, but not limited to, scenic easements) as he deems necessary to accomplish the purposes of this Act by purchase with donated or appropriated funds with the consent of the owner, donation, or exchange.

(b) The Secretary is further authorized to acquire by purchase with donated or appropriated funds such lands or interests in lands without the consent of the owner only if (1) he deems that all reasonable efforts to acquire such lands or interests therein by negotiation have failed, and (2) the total acreage of all other lands within the recreation area to which he has acquired fee simple title or, lesser interests therein without the consent of the owner is less than 5 per centum of the total acreage which is privately owned within the recreation area on the date of enactment of this Act: *Provided*, That the Secretary may acquire scenic easements in lands without the consent of the owner and without restriction to such 5 per centum limitation: *Provided further*, That the Secretary may only acquire scenic easements in lands without the consent of the owner after the date of publication of the regulations required by section 10 of this Act when he determines that such lands are being used, or are in imminent danger of being used, in a manner incompatible with such regulations.

(c) Any land or interest in land owned by the States of Oregon or Washington or any of their political subdivisions may be acquired only by donation. Any land or interest in land owned by the State of Idaho or any of its political subdivisions may be acquired only by donation or exchange.

(d) As used in this Act the term "scenic easement" means the right to control the use of land in order to protect esthetic values for the purposes of this Act, but shall not preclude the continuation of any farming or pastoral use exercised by the owner as of the date of this Act.

(e) The Secretary shall give prompt and careful consideration to any offer made by a person owning land within the recreation area to sell such land to the Secretary. The Secretary shall specifically consider any hardship to such person which might result from an undue delay in acquiring his property.

(f) In exercising his authority to acquire property by exchange, the Secretary may accept title to any non-Federal property, or interests therein, located within the recreation area and, notwithstanding any other provision of law, he may convey in exchange therefor any federally owned property within the same State which he classifies as suitable for exchange and which is under his administrative jurisdiction: *Provided*, That the values of the properties so exchanged shall be approximately equal, or if they are not approximately equal, they shall be equalized by the payment of cash to the grantor or to the Secretary as the circumstances require. In the exercise of his exchange authority, the Secretary may utilize authorities and procedures available to him in connection with exchanges of national forest lands.

(g) Nothwithstanding any other provision of law, except for the provisions of subsection (a) of this section, the Secretary is authorized to acquire mineral interests in lands within the recreation area, with or without the consent of the owner. Upon acquisition of any such interest, the lands and/or minerals covered by such interest are by this Act withdrawn from entry or appropriation under the United States mining laws and from disposition under all laws pertaining to mineral leasing and all amendments thereto.

(h) Notwithstanding any other provision

of law, any Federal property located within the recreation area may, with the concurrence of the agency having custody thereof, be transferred without consideration to the administrative jurisdiction of the Secretary for use by him in carrying out the purposes of this Act.

SEC. 10. The Secretary shall promulgate, and may amend, such rules and regulations as he deems necessary to accomplish the purposes of this Act. Such rules and regulations shall include, but are not limited to—

(a) standards for the use and development of privately owned property within the recreation area, which rules or regulations the Secretary may, to the extent he deems advisable, implement with the authorities delegated to him in section 9 of this Act, and which may differ among the various parcels of land within the recreation area;

(b) standards and guidelines to insure the full protection and preservation of the historic, archaeological, and paleontological resources in the recreation area;

(c) provision for the control of the use of motorized and mechanical equipment for transportation over, or alteration of, the surface of any Federal land within the recreation area; and

(d) provision for the control of the use and number of motorized and nonmotorized river craft: Provided, That the use of such craft is hereby recognized as a valid use of the Snake River within the recreation area.

SEC. 11. Notwithstanding the provisions of section 4(d)(2) of the Wilderness Act and subject to valid existing rights, all Federal lands located in the recreation area are hereby withdrawn from all forms of location, entry, and patent under the mining laws of the United States, and from disposition under all laws pertaining to mineral leasing and all amendments thereto.

SEC. 12. The Secretary shall permit hunting and fishing on lands and waters under his jurisdiction within the boundaries of the recreation area in accordance with applicable laws of the United States and the States wherein the lands and waters are located except that the Secretary may designate zones where, and establish periods when, no hunting or fishing shall be permitted for reasons of public safety, administration, or public use and enjoyment. Except in emergencies, any regulations of the Secretary pursuant to this section shall be put into effect only after consultation with the appropriate State fish and game department.

SEC. 13. Ranching, grazing, farming, and the occupation of homes and lands associated therewith, as they exist on the date of enactment of this Act, are recognized as traditional and valid uses of the recreation area.

SEC. 14. Nothing in this Act shall diminish, enlarge, or modify any right of the States of Idaho, Oregon, Washington, or any political subdivisions thereof, to exercise civil and criminal jurisdiction within the recreation area or of rights to tax persons, corporations, franchises, or property, including mineral or other interests, in or on lands or waters within the recreation area.

SEC. 15. The Secretary may cooperate with other Federal agencies, with State and local public agencies, and with private individuals and agencies in the development and operation of facilities and services in the area in furtherance of the purposes of this Act, including, but not limited to, restoration and maintenance of the historic setting and background of towns and settlements within the recreation area.

SEC. 16. (a) There is hereby authorized to be appropriated the sum of not more than $60,000,000 for improvements of—

(1) the existing road from the town of Imnaha, Oregon, to Dug Bar on the Snake River;

(2) the existing road from White Bird, Idaho, over Pittsburg Saddle to Pittsburg Landing on the Snake River;

(3) either the existing road from Imnaha, Oregon, to Five Mile Point, or an alternative road following generally the same route to Five Mile Point, and thence to Hat Point Lookout above the Snake River;

(4) the existing road from Riggins, Idaho, to Heaven's Gate Lookout above the Snake River.

(b) There is hereby authorized to be appropriated the sum of not more than $10,000,000 for the acquisition of lands and interests in lands.

(c) There is hereby authorized to be appropriated the sum of not more than $10,000,000 for the development of recreation facilities (principally campgrounds) along the four roads as described in subsection (a) of this section and for the development of interpretive visitors' centers at Hat Point in Oregon and at Heaven's Gate in Idaho.

(d) There is hereby authorized to be appropriated the sum of not more than $1,500,000 for the inventory, identification, development, and protection of the historic and archeological sites described in section 5 of this Act.

SEC. 17. If any provision of this Act is declared to be invalid, such declaration shall not affect the validity of any other provision hereof.

Mr. CHURCH. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. McCLURE. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

FOREIGN ASSISTANCE ACT OF 1974 (S. 3394) LAID ASIDE UNTIL CONCLUSION OF BUSINESS TODAY

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the unfinished business (S. 3394) be laid aside until the conclusion of business today.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

AMENDMENT OF THE EMERGENCY DAYLIGHT SAVING TIME ENERGY CONSERVATION ACT OF 1973

Mr. MANSFIELD. Mr. President, I ask unanimous consent that Calendar No. 1111, H.R. 16102, be laid before the Senate as the pending business, and that the Senate proceed to its consideration.

The ACTING PRESIDENT pro tempore. The bill will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 16102) to amend the Emergency Daylight Saving Time Energy Conservation Act of 1973 to exempt from its provisions the period from the last Sunday in October 1974 through the last Sunday in February 1975.

The ACTING PRESIDENT pro tempore. Is there objection to the request of the Senator from Montana? Without objection, the Senate will proceed to its consideration.

The Senate proceeded to consider the bill.

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. TUNNEY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. TUNNEY. Mr. President, I ask unanimous consent that during the consideration of this bill, my staff assistant, Mr. Dan Jaffe, be permitted the privilege of the floor, during votes as well as during debate.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. TUNNEY. I request the privilege also for Lawrence Asch, of my staff.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. CRANSTON. Mr. President, I ask unanimous consent that Roy Greenaway and Jon Fleming, of my staff, may have the privilege of the floor during consideration of this bill.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. STEVENSON. Mr. President, last December 15 Congress approved year-round daylight saving time on a 2-year experimental basis to save energy during a serious energy shortage. I had earlier proposed legislation limiting the experimental period to 1 year. But because the Department of Transportation and the Office of Energy Conservation said it would take 2 years to assemble the necessary data to analyze the effects of year-round daylight saving time, Congress provided for a 2-year experimental period.

As part of the experiment, the Department of Transportation was required to provide the Congress with an interim report on the effects of year-round daylight saving time by June 30, 1974. That report supported all the claims which were made for temporary year-round daylight saving time when the Congress approved it.

The report noted:

The analysis indicates that YRDST probably reduces electricity demand during the winter months, with the savings amounting to approximately one percent.

The report also concluded that—

No significant effects on traffic safety can be attributed to YRDST . . . fatalities involving school-age children over the entire day in both January and February, 1974, are reduced from the previous year.

Despite the positive results of this experiment with year-round daylight saving time, the Department of Transportation study found that a majority of the American people would prefer daylight saving time from March through October—an 8-month period.

The study also concludes that more data concerning energy savings and traffic effects are needed and urges that the daylight saving time experiment be continued on a modified basis.

I believe these conclusions make good sense. The Senate Commerce Committee agreed and favorably reported this bill, H.R. 16102, to repeal year-round daylight saving time and provide instead for 8 months—March through October—of daylight saving time. The Arab oil embargo has been lifted, and the immediate energy emergency has eased. With 8-month daylight saving time we can continue to achieve energy savings and at the same time respond to the public preference for standard time from November through February. To avoid the

public inconvenience associated with dark mornings, it makes sense to return to standard time during November, December, January, and February.

September and October are months during which we have observed daylight saving time since enactment of the Uniform Time Act in 1966. Significantly, the length of the days and the time of sunrise in March and April are approximately the same as in September and October. According to the Department of Transportation report, a majority of the public approved daylight saving time during the months of March and April, as well as the months of September and October. This bill would extend daylight saving time to 8 months by making it effective in March and April.

Mr. President, I introduced a bill on July 23, 1974, to achieve the same purpose as H.R. 16102. The Commerce Committee reported out the House-passed version because there was no substantive difference, and there was the heightened possibility of quick enactment by passing the unmodified House version.

The Senate passed an amendment to the Energy Reorganization Act of 1974 on August 15, 1974. The amendment was a substitute presented by Senator DOLE to amendment No. 1768 offered by Senator TAFT. That amendment had the same substantive effect as my proposed change in the time law. Chairman MAGNUSON and the other members of the Senate Commerce Committee decided to proceed with H.R. 16102 because of the need for quick action.

The committee report describes in detail the impact of this bill on the various States which have requested exemption from the original emergency daylight saving time bill provisions. In summary, every State that has received any exemption under the emergency daylight saving bill has been accommodated under this amendment. The Department of Transportation is prepared to move quickly to address the problems of central Kentucky caused by the time zone line change of last fall. The States of Idaho and Michigan will have the opportunity through their State legislatures to shift to daylight saving time the last Sunday in February if they so choose. If they take no further legislative action, the exemption for those two States from daylight saving time will expire on the last Sunday in April 1974. This parallels the request of the respective officials in those States. And finally, States which have historically not observed daylight saving time in the summer months—Arizona, Hawaii, Puerto Rico, the Virgin Islands, American Samoa, and the eastern time zone in Indiana—will not have their status changed by this amendment.

The Department of Transportation will still be required to file a final report and analysis of the impact of winter daylight saving time. The amendment would allow DOT an additional month to accumulate accurate data in calendar year 1975. The chairman of the Committee on Commerce has indicated to me that he intends to hold hearings on the DOT report when it is received next summer. At that time, the Commerce Committee will review the state of the Nation's time laws and determine whether permanent change in the time laws would be beneficial.

This is an amendment to the Emergency Time Act which was passed last year. It does not change the Uniform Standard Time Act of 1966 which will again take effect on the last Sunday of April, 1975.

I urge its favorable consideration by the Senate.

Mr. DOLE. Mr. President, if the Senator will yield I am in complete accord with the statements of the Senator from Illinois (Mr. STEVENSON).

I am pleased to see the daylight saving time bill before the Senate today. Most people from Kansas would prefer 6 months of daylight saving time and 6 months of standard time. Many farmers and rural residents in my State would prefer no advanced time at all. However, many people in urban areas have indicated a desire for 9 months of DST, as the Senator from Washington has said.

EFFECTIVE COMPROMISE

I believe this bill is an effective compromise which comes nearest to meeting the different desires of our urban and rural populations. It would permit some energy savings during this period when energy is still a major concern and expenditure for the Nation.

This bill, if enacted, will represent an acceptable compromise until the emergency Daylight Saving Time Act expires in 1975 and the Nation reverts back to the preenergy crisis time schedule of 6 months of DST.

LIKE EARLIER AMENDMENT

This bill should not be controversial. It is nearly identical to a daylight saving time amendment which I introduced on August 15 and which was passed by the Senate with no dissenting votes.

The essential need at this point is to pass this bill quickly so that legislation can be signed into law in time to prepare for changing the time schedules before the last Sunday in October.

LESS DANGER

The most terrible impact of the year-round daylight saving time bill has been in the numerous deaths of school children in the early morning hours when it is still dark under daylight saving time. The tragic instances which occurred last winter have been well publicized. Numerous parents have contacted me protesting the increased danger daylight saving time has meant for their children, and I share their concern. Every other member of Congress is undoubtedly well aware of this danger. For this reason alone, daylight saving time should be stopped for the 4 months I have proposed.

In spite of the fact that the casualties among school children declined last winter under daylight saving time, it appears that moving the clock backward has been the major factor in reducing the safety of students going to school in the morning. The decline in student fatalities undoubtedly was at least partially a result of the lower speed limits and the lighter volume of traffic during the energy shortage last winter. The increased danger from daylight saving time is indicated by the increase of fatalities among school children during the early hours of the day. Numerous people from the State of Kansas have contacted me here to emphasize this fact and I have personally spoken to many more people of the same opinion in my trips to the State in recent months.

ENERGY SAVINGS IN DOUBT

Many Kansans have pointed out to me that year-round daylight saving time has actually resulted in additional expenditure of energy in some cases, contrary to the original objective of saving energy.

For example, in schools the heat and lights must be turned on at an earlier time under daylight saving time. In addition, many parents find it preferable to drive their children to school rather than have them walk in darkness. Both of these consequences of year-round daylight saving time result in additional expenditures of fuel and point to the need for modifying the Emergency Daylight Saving Time Act.

However, the committee report shows that there is a substantial basis for concluding that year-round daylight saving time does result in an energy savings of about 1 percent of our national energy consumption. This amounts to a saving equivalent to about 100,000 barrels per day.

This compromise DST bill will permit some energy saving while providing greater convenience to our citizens.

IMPACT ON AGRICULTURE AND BUSINESSES

In addition, daylight saving time has been detrimental to many businesses and to farmers. This bill would permit a more rational time system to be enacted.

The impact of daylight saving time is especially severe for farmers. Farmers, by the nature of their activities, must do most of their work during daylight hours. Those working with dairy herds and other livestock find it especially unnatural to use the daylight saving time schedule. This legislation would help reduce this hardship, although the total repeal of daylight saving time during winter months would be much more desirable for the farm population.

In addition, many other businesses have found daylight saving time to be objectionable. Many workers are not as productive during the early hours when it is still dark. Many businesses have found that their sales have declined because of daylight saving time.

Mr. President, a large number of Kansans have clearly stated their position on year-round daylight saving time to me, and it is obvious that a reduction in the period for daylight saving time is necessary. This bill provides that daylight saving time shall exist for a shorter period, and I urge every Senator to support this measure.

Mr. MAGNUSON. Mr. President, last winter, we all recall the severe energy shortages which faced our Nation. The President requested that the Ntaion use every possible way to save energy. In particular, he asked Congress to pass a temporary change in the Nation's time law and place the Nation on year-round daylight saving time. The Congress responded immediately, and the Emergency Daylight Saving Time Energy Conservation Act of 1973 was passed within a few days

of the President's Energy Message. New Public Law 93–182 provided that the Nation remain on daylight saving time through April 1975.

The Secretary of Transportation conducted a study of the national experience under year-round daylight saving time for the first few months of 1974. His interim report on the impact of daylight saving time was forwarded to the Congress on June 30, 1974. That report shows significant but small energy savings in electricity consumption due to daylight saving time in the winter months. Unfortunately, the data base was insufficient to draw final conclusions. And, it is clear from the public opinion polls that people's attitude toward winter daylight saving time changed significantly after the time change on January 4, 1974.

H.R. 16102 amends Public Law 93–182 to reflect the change in popular opinion with regard in winter daylight saving time. The bill proposes to place the Nation back on nonadvanced time beginning the last Sunday in October this fall and continuing through the last Sunday in February 1975. So the Nation will be on an 8-month daylight saving time, 4-month regular time system over the next 12 months.

The bill amends the temporary Daylight Saving Time Act. It does not change the underlying Uniform Time Act of 1966. When the Emergency Act expires on the last Sunday in April 1975, the Nation will revert to the Uniform Time Act of 1966, and we will again be on a 6-month daylight saving time, 6-month standard time system nationwide. Next summer, the Secretary of Transportation will again forward to the Congress a report on the overall national experience under advanced time in winter months. The Senate Commerce Committee will review then the time laws of the Nation and determine whether or not a permanent change in the time statutes is warranted based on the evidence at hand.

I sincerely hope that H.R. 16102 will quickly pass the Senate. Many industries across the Nation are dependent upon advance schedule planning based on clock time. We owe it to all our citizens to provide certainty as to the time changes ahead as quickly as possible. I believe that H.R. 16102 is a consensus bill which is widely acceptable to all the citizens of our Nation.

Mr. CLARK. Mr. President, I have consistently supported the repeal of year-round daylight saving time. I am pleased that the Commerce Committee has reported out this bill, and that Congress is considering repeal now, before the dark mornings set in again.

I would have preferred to return to the traditional system of 6 months of daylight saving time and 6 months of standard time. Many people in Iowa and across the country would agree with me. But, clearly, there is more support in Congress for the provisions of this bill—8 months of daylight saving time and 4 months of standard time—and I will certainly vote for the bill since it means that the Sun will rise in time for the opening of schools and businesses during the darkest and coldest months of winter.

I have worked for repeal of year-round daylight saving time this year for several reasons. First, year-round daylight saving time was intended as an energy conservation measure, but, according to the Department of Transportation report, it has been only minimally effective in conserving energy.

Second, year-round daylight saving time was supposed to join the country together in support of the energy conservation effort. Instead, it has caused more disruption and divisiveness than any other energy measure we have adopted.

And third, I—and many other people—believe that sending small children to wait for school buses on unlighted rural roads in the dark must increase the danger of their being hit by automobiles—and that is an unnecessary risk.

For these reasons, I do not believe that daylight saving time should be observed during the winter months and I am happy to support the legislation being considered today.

Mr. DOMENICI. Mr. President, the Senate is now debating a simple but very warranted piece of legislation in H.R. 16102. I strongly support this bill because it removes the rather dangerous burden that many New Mexicans have been forced to experience during the winter months.

During the height of the energy shortage I supported a move to establish a national time schedule because it was our belief that this was a positive move in conserving energy. After witnessing the detrimental affects of this legislation last winter I am convinced that there is small energy savings, if any, and such does not offset this unreasonable burden it placed on many segments of our constituents.

We have all heard of the hardships this time schedule has caused especially to our children who were forced to walk to school in the dark. I have received many letters from New Mexicans which typify the problems caused by daylight savings time during the winter months.

Mr. President, I ask unanimous consent that the letters be printed in the RECORD. I feel their comments are very warranted and would hope that my colleagues would join with me in support of H.R. 16102.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

ALAMOGORDO, N. MEX.,
August 4, 1974.

DEAR SENATOR: I was very gratified to read that you are trying to do away with Daylight Time during the winter months. I hope you are successful in this endeavor.

I am also glad you only want standard time during November, December, January, and February. I always thought that Daylight time should start earlier than the last Sunday in April. March would be just fine.

Good luck.

Sincerely,

RON W. JOHNSON.

FARMINGTON MUNICIPAL SCHOOL
DISTRICT NO. 5,
Farmington, N. Mex., July 5, 1974.

Hon. PETE V. DOMENICI,
U.S. Senate,
Washington, D.C.

DEAR SENATOR DOMENICI: A major effect of the year-round daylight-saving time, precipitated by the energy crisis, is of deep concern to us in the Farmington Municipal Schools.

Children walking to school in the winter darkness and waiting for busses present hazards to their life that we find impossible to rationalize or justify for energy conservation. Though no children were killed or injured in Farmington last winter, members of the Board of Education and many school patrons feel a deep urgency to remove the conditions created by daylight-saving during winter months. Reports from other communities in New Mexico and from other states also point to deep concern for the threat to children's safety created by the law.

We, therefore, request that you and other congressmen take steps to repeal the legislation that created year-round daylight time, returning it to the former calendar of the last Sunday in April through the last Sunday in October.

This request is also being made of other New Mexico congressmen, in the hope that the law will be repealed before this winter.

We thank you in advance for your consideration of this issue.

Cordially,

BOARD OF EDUCATION,
JAMES S. COGGINS,
Vice President.

SILVER CITY, N. MEX.,
January 28, 1974.

Senator PETE V. DOMENICI,
U.S. Senate,
Dirksen Office Building,
Washington, D.C.

DEAR SENATOR DOMENICI: I am writing in the hope that you can either answer a question for me or refer my letter to someone who can clarify the matter.

Simply put, I do not understand the advantage of year-round daylight saving time. I do see how energy can be saved in the summer months, but find no saving in getting up in the dark, and thus turning on lights and heat. To me, and to all I ask about it, winter daylight saving time is nothing but a big fat pain to no avail. I should, therefore, like an explanation of the rationale behind its institution.

Thank you for any explanation you can furnish me.

Sincerely,

JOHN E. CUNNINGHAM.

Mr. TAFT. Mr. President, the Senate has before it H.R. 16102, a bill to amend the Emergency Daylight Saving Time Energy Conservation Act of 1973. This bill will terminate daylight saving time from the last Sunday in October, 1974 through the last Sunday in February, 1975. This bill has already passed the House of Representatives. The bill is identical to the amendment which I cosponsored to the Energy Research and Development Act in August and which has already passed the Senate. That legislation is now in a House-Senate conference.

I opposed winter daylight saving time when it was first proposed last December, during the energy crisis. At that time, I did not feel that winter DST would result in a substantial savings of energy, and I was correct. The Department of Transportation report on the effects of winter daylight saving time show, at most that only 1 percent of our electricity is saved. Even this small amount of conservation results predominantly in savings of coal, not petroleum. We are not short of coal. The study showed that winter DST probably even increased gasoline use in March and April.

My constituents in Ohio have been particularly concerned about winter daylight saving time, because many of them live on the western edge of the eastern standard time zone and it does not get light until nearly 9 a.m. during the winter months with DST. The Columbus Board of Education noted fears of parents whose children had to go to school in the darkness last winter. The board sent questionnaires to parents, and 66.4 percent of the schools indicated they would prefer a later school starting time. Many school boards around the State are planning to go on later starting schedules, if winter DST is not repealed by the Congress. Hopefully we will act in the Senate and the President will sign the bill into law before the end of October and no schedules will have to be adjusted.

Mr. STENNIS. Mr. President, I was opposed to the imposition of year-around daylight saving time at the time that legislation was passed, and I support the passage of H.R. 16102, which would put the nation on a schedule of 8 months of daylight saving time and 4 months of standard time.

It will be recalled that winter daylight saving time was prescribed in an emergency energy measure, in December 1973, in the hope that some electricity could be saved, to ease to some degree the impact of the oil embargo. The time change went into effect on the fourth Sunday thereafter, on January 6, 1974.

Within a month it was apparent to me that the drawbacks to winter daylight saving time were exceeding the very negligible benefits, and in remarks on the floor on February 4, I advocated a return to the time system to which people were accustomed—6 months of daylight time and 6 months of Standard Time. I was particularly concerned about young children having to be out before dawn, walking to school in the darkness or waiting in the cold for school busses. It was my view, and I said so in my radio and TV broadcasts to Mississippi that week, that if Congress could not agree on 6 months of each time, then I would advocate a compromise of using 4 months of standard time, during the heart of the winter. Conditions in March and April are not as difficult for school children, and daylight saving could be tolerable in those 2 months if necessary.

By summer, Congress had not acted to repeal year-round daylight saving time, and we were approaching a new school year. School districts and families needed to know what kind of a schedule they would be following. So, on July 22 I introduced a new bill, to return to 6 months of standard and 6 months of daylight time, and I asked for early hearings and prompt consideration by the Senate.

I pointed out that there were three good reasons why this should be done. First, the report by the Secretary of Transportation on the results of the first winter of daylight saving time did not show savings of energy. Second, it was clear that schoolchildren were facing difficult and even hazardous conditions in trying to get to school in the dark mornings. Third, there was disruption and hardship in families, particularly where both parents worked, because some school districts were changing the opening hour of school in order to protect the children.

In August both Houses of Congress agreed on the compromise of 8 months of daylight saving and 4 of standard time—the House in a separate bill and the Senate in an amendment to the Energy Reorganization Act.

We have before us, of course, the House bill. I urge that the Senate pass it promptly, so that it can go then to the White House for signature as soon as possible. This is a good compromise. Some areas of the Nation did not object strenuously to year-round daylight saving. Some would have preferred 9 months, and 3 of standard time. I would have preferred 6 and 6, but this will give the people standard time in the heart of winter—November through February—and that is the critical period.

I support this bill and urge its prompt passage.

Mr. PELL. Mr. President, I am deeply concerned by the efforts of the Senate today to amend the Emergency Daylight Saving Time Energy Conservation Act. The recent findings of the Department of Transportation's interim report, although inconclusive, indicate no direct evidence that this energy conservation measure was either harmful or caused a serious adverse economic impact on the majority of individuals.

The Emergency Daylight Saving Time Energy Conservation Act was passed at a time when the United States was confronted with a critical shortage of energy supplies. Although the severe shortage of supplies does not currently exist, we are still faced with a long-term energy problem as well as an immediate concern, the possibility of a prolonged coal strike during the coming winter months. In view of these facts, one of the most significant findings of the DOT report is the determination that the observance of daylight saving time during the winter months probably resulted in a reduction in the consumption of electrical energy of between three-quarters and 1 percent. This I understand translates into energy savings of—

Approximately 14,500 barrels per day of oil;

Approximately 106 million cubic feet of natural gas—equivalent to 19,500 barrels of oil per day;

Approximately 9,650 tons of coal per day—equivalent to another 42,320 barrels per day; and

Approximately 24,000 barrels of oil per day equivalent of nuclear and hydro power.

Mr. President, I recognize that many of my colleagues are deeply concerned about one aspect of year-round DST—the danger to school-age children during the early morning hours. I, too, share that concern very much, however, I understand on the basis of the DOT report that fatalities involving school-age children over the entire day during the critical period—January and February 1974—were reduced from the previous year. Furthermore, during the period in question, between 6 and 9 a.m., although the DOT cites an increase in school-age fatalities for the month of February, the National Safety Council during the transition month of January, cites no increase in fatalities involving school-age children. Hence, the findings for the early morning period appear to be inconclusive and one can conclude there was an overall reduction in fatalities from YRDST on the basis of information currently available.

Mr. President, it is unclear to me why we should amend YRDST at this time in view of the long-term energy crisis we face. The Secretary of Transportation concluded in his interim report that another year's experiment with DST was in the public interest. He further indicated that additional information would enable the DOT to better determine the effects of YRDST on energy conservation, traffic patterns, safety, and other areas of concern. Furthermore, I might add that in my own State of Rhode Island, year-round daylight savings time has had strong support and as a result of energy savings, meant a great deal to those who are paying energy costs in excess of those paid by the United States as a whole.

I believe, Mr. President, that at a time when we face continued energy shortages, when it is absolutely essential to promote the energy conservation ethic, a fact that was acknowledged by my colleagues through extension of the 55 miles per hour national speed limit, that it would be in the best interests of the country to continue this measure for another year. YRDST is an energy conservation step that up to this point, has resulted in significant energy savings and created little or no major inconvenience to the public. Therefore, I cannot support the effort to amend the Emergency Daylight Saving Time Energy Conservation Act.

AMENDMENT NO. 1935

Mr. TUNNEY. Mr. President, I send an amendment to the desk.

The ACTING PRESIDENT pro tempore. The clerk will state the amendment.

The assistant legislative clerk proceeded to read the amendment.

Mr. TUNNEY. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

On page 2, after line 12, insert the following new section:

SEC. 4. (a)(1) Congrses finds that the imposition by one State of State taxes, regulations, prohibitions, and requirements which discriminate against wine produced outside the State, and the imposition of unreasonable requirements as conditions for shipment into and sale or distribution of wine in a State materially restrain, impair, and obstruct commerce among the several States.

(2) Congress declares that, in the exercise of power to regulate commerce among the several States granted to it by article I, section 8, clause 3 of the United States Constitution its purpose and intent in enacting this Act is to eliminate the obstructions to the free flow of commerce in wine among the several States resulting from acts of the States which impose discriminatory and unreasonable burdens upon such commerce.

(b)(1) Wherever the law of any State permits the transportation or importation

of wine into that State, such State may not impose with respect to any wine produced outside the State, or from materials originating outside the State, any tax, regulation, prohibition, or requirement which is not equally applicable with respect to wine of the same class (established under section 5041(b) of the Internal Revenue Code of 1954) (1) produced in, or from materials originating in, the State imposing such tax, regulation, prohibition, or requirement, or (2) produced outside the State, or produced from products produced outside the State.

(2) A State which permits the sale of wine wtihin the State shall permit the transportation or importation of wine of the same class (established under section 5041(b) of the Internal Revenue Code of 1954) produced outside the State, or from materials originating outside the State, into such State for sale therein upon terms and conditions equally applicable to all wine of the same class (established under section 5041 (b) of the Internal Revenue Code of 1954) sold in the State.

(c)(1) Notwithstanding the provisions of subsection (b) of this Act, each State retains the right—

(i) to engage in the purchase, sale, or distribution of wine; and

(ii) to exercise discretion in the selection and listing of wine to be purchased or sold by each such State.

(2) No State which exercises the rights set forth in subsection (c)(1) may impose with respect to wine of any class (established under section 5041(b) of the Internal Revenue Code of 1954) any tax, regulation, license fee, prohibition or markup, which discriminates against wine of such class produced outside such State.

(d) Whenever any interested person has reason to believe that any State has violated any of the provisions of subsection (b) or (c)(2) of this Act, such person may file in a district court of the United States of competent jurisdiction a civil action to enjoin the enforcement thereof. Such court shall have jurisdiction to hear and determine such action, and to enter therein such preliminary and permanent orders, decrees, and judgments as it shall determine to be required to prevent any violation of subsection (b) or (c) (2).

(e) As used in this Act—

(1) the term "State" means any State of the United States, any political subdivision of any such State, any department, agency, or instrumentality of one or more such States or political subdivisions, and the Commonwealth of Puerto Rico; and

(2) the term "person" means any individual and any corporation, partnership, association, or other business entity organized and existing under the law of the United States or of any State.

Mr. TUNNEY. Mr. President—and I would like to have the attention of the distinguished Senator from Georgia (Mr. TALMADGE)—I ask unanimous consent that the debate on this amendment be limited to 1 hour.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. TALMADGE. Mr. President, I object.

The ACTING PRESIDENT pro tempore. Objection is heard.

Mr. TUNNEY. Mr. President, I ask unanimous consent that the yeas and nays on this amendment occur no later than 3 p.m. today.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. TALMADGE. Mr. President, I object.

The ACTING PRESIDENT pro tempore. Objection is heard.

Mr. TUNNEY. Mr. President, the sole purpose of this amendment is to abolish discriminatory taxes, license fees, and other discriminatory burdens imposed by some States on wines produced outside the State or from materials produced outside of the State.

The legislation does no more than require that each State treat any such wine as favorably as any other wine of the same class sold in the State. If any State prohibits the production, distribution, and sale of wine within its borders, this legislation would not interfere in any way with that prohibition.

In summary, this legislation would:

First. Make a congressional finding that the imposition by one State of discriminatory taxes or other measures on wine produced in other States or from materials produced in other States, and the imposition of unreasonable requirements for shipment into and sale or distribution of wine in a State obstructs commerce among the several States.

Second. Make a congressional declaration that the legislation is enacted as an exercise of the power conferred upon Congress by article I, section 8, clause 3 of the U.S. Constitution to regulate commerce among the several States.

Third. Prohibit any State from imposing discriminatory taxes or other discriminatory measures on wines produced outside of the State or from materials produced outside of the State.

Fourth. Makes clear that each State retains the right to engage in the purchase, sale, and distribution of wine and the right to exercise business discretion in selection and listing of any wines purchased, sold, and listed or distributed by the State.

Fifth. Gives any interested person standing to file suit in a District Court of the United States of competent jurisdiction to enjoin any discriminatory measures proscribed by the legislation.

Now, this amendment neither advocates nor discourages the consumption of wine. I would like to point out, however, that the growing importance of wine as a product is not limited just to California, New York, and other wine-producing States, but is of importance to the entire country because wine is becoming a major consumer product.

In my own State of California, the wholesale business of wine now amounts to about $1 billion. Consumption of wine in the United States for the last decade has more than doubled, from about 168 million gallons in 1962 to approximately 350 million gallons in 1972.

As the consumption of wine has increased, the search for suitable areas in which to grow grapes has spread to more States. Where sufficient grape production has resulted, wineries have been established near vineyards. If we permit the continuation, or worse yet, the further proliferation, of trade barriers which have been imposed by some States against out-of-State wines or products used in the production of wine, we will return the United States, at least in the area of wine, to the era of the Articles of Confederation in which it was possible to discriminate against the products of a neighboring State.

Consumers in some States today are limited or obstructed in their freedom of choice of wines, and must pay substantially more for the opportunity to purchase wine they choose merely because it is produced outside of the State or from products which were produced outside of the State.

Current taxing policies then not only run contrary to the Constitution, they constitute an additional hardship on the consumer, and tax him on his freedom of choice.

Because of the importance of the wine industry in those States which are our major producers, I have heard it said that this legislation is an attempt by the major wine-producing States to use their muscle against the small producers in other States.

Therefore, it may be very interesting for the Senate to consider the numerical facts, for while the wine industry of the State of California is of enormous importance to that State, by and large, that industry is made up of very small wine growers, some of whom have their own labels, their own wineries, and some of whom do not, but sell to those individuals who do have wineries.

As a comparison there are 237 wineries in the State of California smaller than the major winery in Arkansas; there are 117 wineries in the State of California smaller than the Georgia winery. New York and Ohio are other major producers. In New York there are 21 smaller wineries than the Arkansas winery, in Ohio 23 smaller. In New York there are again 21 smaller wineries than the Georgia winery and in Ohio 24 smaller.

Employment figures should be considered. Collectively the wine industry is of great importance to the State of California. Nearly 70,000 Californians earn their living directly in this industry. In the State of New York it is estimated that 6,000 to 7,000 citizens earn their livelihoods directly through the wine industry of that State. Likewise in Ohio and Illinois, large numbers of citizens are engaged in the industry which produces wines of which America can be proud. By comparison, only 300 Georgia citizens earn livelihoods directly through that State's wine industry, as opposed to the 70,000 in the State of California.

Clearly this legislation is not a case of a few major producers trying to take over the marketplace. Rather, it is an attempt to insure the free flow of commerce in the best interests of Americans who would like to be able to buy and consume the wine of their choice.

Also, it is clearly in keeping with the traditions as outlined in the Commerce Clause of the Constitution that one State will not discriminate against the products of another State.

I might add that it was this common market approach to our national consumers that has enabled the United States to become the major industrial power in the world. If the same rule had been applied to other commodities as is now attempted to be applied to wine by some parties, it would mean that this country would never have grown into the major industrial power that it is today.

I would just like to add, Mr. President,

why this amendment is being offered to this bill.

In the House of Representatives this legislation passed by a substantial margin, but it went to the House Interstate and Foreign Commerce Committee, it did not go to the House Ways and Means Committee.

However, because of the rules of the Senate, the legislation—this amendment I am offering, which is identical to the legislation that Senator CRANSTON and I introduced earlier—was referred to the Finance Committee rather than to the Commerce Committee. There was an attempt to get favorable consideration of it by the Finance Committee.

Unfortunately, we were not able to get the bill to a vote in the Finance Committee, although I happen to believe we had enough votes to pass the bill out of the Finance Committee, we were not able to get the bill taken up for a vote.

So the only alternative left to us in order to have this measure considered by the Senate as a whole, is the amendment process in which we are now engaged.

We offer this amendment today, not trying in any way to circumvent the committee structure of Congress. Far from that. We have tried to utilize the committee structure as it exists. But, we use the amendment because we would like to have the Senate express an opinion on this bill.

As I say, it is a $1 billion industry in California.

Seventy thousand people are directly affected by the wine industry and by this legislation.

We feel in a country that is as strong and as great as ours, and as democratic as ours, that we are entitled to a vote by the U.S. Senate on a bill that the House of Representatives has overwhelmingly passed.

Mr. TALMADGE. Mr. President, will the Senator yield?

Mr. TUNNEY. Yes; I am happy to yield to the Senator.

Mr. TALMADGE. I thank my distinguished friend for yielding to me.

The Senator, of course, is aware of the fact that the 21st amendment to the Constitution of the United States which repealed the 18th provides that alcoholic beverages may be introduced and sold in a State only in accordance with the laws of that State, is he not?

Mr. TUNNEY. Yes, I am.

Mr. TALMADGE. The Senator is also aware of the fact that the Supreme Court of the United States on innumerable occasions when interpreting that amendment to the Constitution has held that States may be discriminatory, to wit, more favorable taxation of their own domestic wines than other wines, is that not a fact?

Mr. TUNNEY. Well, it is a fact that States have discriminated.

Mr. TALMADGE. It is a fact that the Supreme Court of the United States has affirmed that, too, is it not?

Mr. TUNNEY. The Supreme Court of the United States has said that it is not unconstitutional. They have not suggested that the Congress of the United States does not have a right to legislate by utilizing the commerce clause.

Mr. TALMADGE. The Senator has not offered a constitutional amendment, has he?

Mr. TUNNEY. No. But it is not necessary to offer a constitutional amendment.

Mr. TALMADGE. Is the Senator of the opinion that the Constitution of the United States can be changed by legislation?

Mr. TUNNEY. No, I am not of the opinion that the Constitution of the United States can be changed, but I am not offering an amendment which attempts to change the Constitution.

What I am doing is offering an amendment which clarifies the application of the commerce clause of the Constitution, which has as much force and effect as the 21st amendment.

Mr. TALMADGE. Well, the Senator knows that no statute can have the force and effect of an amendment of the Constitution, does he not?

Mr. TUNNEY. But I am aware of the fact that the Supreme Court has not decided the issue as it relates to the Congress passing legislation implementing the commerce clause.

Mr. TALMADGE. Is it not a fact that what the Senator wants to do is try by legislation to repeal the Supreme Court's interpretation of the Constitution of the United States?

Mr. TUNNEY. No, it certainly is not.

As a matter of fact, on this point I would like to quote from Erwin Griswold, the former Solicitor General of the United States, in a letter to the Committee on Finance, August 1, 1974:

> It is clear that there has been a development in the decisions, from the early cases, in the 1930s, to the more recent cases in the past ten years. It is now clearly established that Section 2 of the 21st Amendment does not "repeal" the Commerce Clause or the Export-Import Clause with respect to intoxicating liquors. The court has said that these clauses and the 21st Amendment are all parts of the same Constitution, and must be construed together. In so construing the entire Constitution, the Court has found various areas where the constitutional provision, and the power of Congress, remain effective despite the adoption of the 21st Amendment.
>
> Although I know of no case explicitly saying so, it is clear that the same principle is applicable to the Due Process Clause and the Equal Protection Clause of the 14th Amendment. For example, suppose that a state should enact that only red-headed persons could import liquor from outside the state. Is there any doubt that this would violate the Equal Protection Clause—or, that Congress could, in the exercise of its power, under Section 5 of the 14th Amendment, enact a statute invalidating this requirement. Or, to present the same point another way, suppose that a state enacted a statute saying that the liquor business in the state could only be carried on by white Anglo Saxon Protestants. It seems equally clear that the Equal Protection Clause, or the power of Congress to enforce the Equal Protection Clause, would be applicable to invalidate such a discriminatory provision.
>
> It is in this light, then, that we consider the power of Congress to deal with state taxing statutes which discriminates against extra-state wine. It is clear that under the Twenty-First Amendment, the states have very wide powers to "regulate" traffic in intoxicating liquors. They can forbid it entirely, and they can provide requirements, including stringent requirements, designed to protect the state and its inhabitants against illegal conduct of the liquor business.
>
> But the taxes to which H.R. 2096 is directed are not regulatory in nature. They do not operate to control the liquor business, in a regulatory sense. On the contrary, their objective is economic, not regulatory, as appears clearly in the Hearings before this Committee on January 21, 1974. Various statements before the Committee show that the purpose of these statutes is to act like a tariff barrier—not to exclude out-of-state wine, and not to regulate out-of-state or domestic wine, but simply to provide a greater margin of profit for domestic producers. Such an objective, it may well be contended, is outside the proper scope of the power given to the states by Section 2 of the Twenty-First Amendment; and it is equally the sort of action which is barred by both the Commerce Clause and the Equal Protection Clause, or by a statute enacted by Congress pursuant to its powers under one or another or both of those clauses.

In other words, what Dean Griswold is saying is that the Congress has a perfect right to enact this legislation, and that it would not be in violation of the Constitution or the 21st amendment to the Constitution. As a matter of fact, it would be enacting legislation under the powers that have been granted to it by the Constitution and in compliance with its responsibilities under the commerce clause.

Mr. TALMADGE. Will the Senator yield further?

Mr. TUNNEY. I yield.

Mr. TALMADGE. Was Dean Griswold acting as counsel for the California Wine Institute at the time he wrote that?

Mr. TUNNEY. That is correct.

Mr. TALMADGE. In other words, he was the paid spokesman for the industry and their professional lawyer?

Mr. TUNNEY. He was their professional lawyer, paid as their professional lawyer, giving his opinion as to the constitutionality of the legislation that is before us.

Mr. TALMADGE. And his business was to look after the interests of his client.

Mr. TUNNEY. That is the Senator's viewpoint. He is an eminent lawyer. He was an eminent Solicitor General. He is recognized as a constitutional authority.

Mr. TALMADGE. But at that time he wrote that August 1, 1974, letter, he was looking after the interests of his client in a professional capacity; was he not?

Mr. TUNNEY. He makes a very good constitutional argument.

In rendering his opinion though, he was certainly being paid by the California Wine Institute.

Mr. TALMADGE. Does the Senator know how much his fee was?

Mr. TUNNEY. I have no idea how much his fee was?

Mr. TALMADGE. It was significant, I imagine; was it not?

Mr. TUNNEY. I do not know.

Mr. TALMADGE. Will the Senator tell me what percentage of the market in the United States the California wine industry has now?

Mr. TUNNEY. Yes. In production it is 82.6 percent.

Mr. TALMADGE. Eighty-two percent of the total domestic market?

Mr. TUNNEY. 82.6 of production.

Mr. TALMADGE. And New York has about 10 percent does it not?

Mr. TUNNEY. About 10 percent, correct.

Mr. TALMADGE. So when we combine the two States, New York and California, they have a total production of approximately 95 percent of the domestic market at the present time.

Mr. TUNNEY. Well, not to quibble, but it is about 93 percent.

Mr. TALMADGE. We will settle for 93 percent. I will take the Senator's word for it.

Mr. TUNNEY. We have 20 percent of the population as well.

Mr. TALMADGE. What the Senator's amendment would do, then, is to array the interests of 93 percent of the production of domestic wine against the interest of the poor, unfortunate, weak, humble 7 percent; is that not a fact?

Mr. TUNNEY. California has never made an attempt to discriminate against Georgia peanuts.

Mr. TALMADGE. I have a list of discriminations California is guilty of kneehigh. Before this debate is over I intend to acquaint the Senator from California with them.

Mr. CHILES. If the Senator will yield, does the Senator know that California has discriminated against Florida citrus and Florida avocados, and has made a practice of discriminating against many of the agricultural products from the State of Florida which we attempt to send to that great State of California?

Mr. TUNNEY. I yield to my distinguished colleague (Mr. CRANSTON) on that issue, and for any other comments that he would like to make on this matter.

There is no one who has taken a greater interest in this problem than Senator CRANSTON during his tenure in the Senate.

Mr. CRANSTON. I thank the Senator for yielding.

I thank him for his good and effective work and the leadership he has offered in regard to this amendment. I am delighted to join with him in cosponsoring this legislation.

There is no agricultural product that I am aware of that is subject to any deliberate discrimination of the sort that certain States have erected against California wines.

Mr. CHILES. Perhaps you can allow me to elucidate a little bit on that point.

Mr. CRANSTON. Let me first say that our State's agriculture laws are legitimate exercises of the State's police powers to protect against the importation of plant diseases from other States, diseases which are not native to California.

Mr. CHILES. I think a Federal court has held that that is not correct, that they were put up strictly as trade barriers in regard to avocados, and they were not a legitimate exercise of police powers. Finally, after going to the Federal courts, they struck down the State of California trying to keep out our little avocados.

Mr. CRANSTON. I happen to agree with that position. I think they were unfair. That has been eliminated. We are now seeking to eliminate an unfair discrimination against one of our products.

Mr. CHILES. Then California ought to go to court, as Florida did. We were successful in doing that. That would be a better way to do it.

Mr. CRANSTON. The 21st amendment, as you well know, did not apply to avocados. It applied to alcoholic beverages. So there is a slight difference in the matters that we are talking about.

Mr. CHILES. But when you speak of unfair trade practices and you speak of trade discrimination, then you are speaking of matters that certainly should resolve themselves in the courts of the land. That is where Florida went with part of its problems with California. We are still having problems in California with some of our grapefruit. We have problems with our tangerines. But with the problems of avocados we went to the courts of the land and sought relief, and were able finally to get relief, because there were unfair trade practices.

The junior Senator from California has set forth, and I understand the senior Senator is setting forth, that these are discriminatory practices.

Mr. TUNNEY. If I might explain to the Senator, there is case law now which interprets the 21st amendment to the Constitution, which makes it clear that the winegrowers and producers cannot go into the courts to eliminate this trade discrimination because of anomaly in the constitutional law. I can assure the Senator that the drafters of the 21st amendment had no intention of creating a situation in which one could discriminate against the wine products of one State by another State.

Mr. CHILES. I am delighted with the Senator's use of the word "anomaly," because I have read those cases. I think maybe it is an anomaly because the anomaly was on the basis of States rights. Today that is kind of an anomaly because there are not many States rights left, and you cannot find many places where you find the anomaly of having States rights.

Mr. TUNNEY. In other words, the Senator thinks States rights apply to a State being able to discriminate unfairly in its tax structure against the products of another State. He stands for that?

Mr. CHILES. I am for States being able to do something to try to protect a fledgling industry that they are trying to start.

Mr. TUNNEY. In other words, to have discriminatory tactics against products of another State; is that what the Senator is for?

Mr. CHILES. As long, again, as the courts have held it to be proper under the Constitution, I would rather say that I am for that than I would do something like California did on avocados, which was held to be discriminatory, held to be against trade practices, and held to be unfair.

Mr. TUNNEY. I can only say I am glad that the Senator from Florida was not a delegate to the Constitutional Convention because we would not have had the kind of country that we do today; certainly not one with the economic power we enjoy today.

Mr. CHILES. I am delighted that I was not, too, because had I been a delegate, I would not be here today to try to stop the Senator from taking over my little State and the little bit of grape growing that we are trying to start, if I had lived back in those days.

Mr. TUNNEY. What does Florida export? Oranges, right? How would you like it if New York applied a discriminatory tax against Florida oranges?

Mr. CHILES. We do not like it when California keeps our oranges and tangerines out now on the basis of what they set forth as being some health regulations, but they are various obstructions to our trade. We do not like it.

Mr. TUNNEY. I have bought many Florida oranges in California. We do not keep your oranges out of California. This problem cannot be reduced to hypothetical situations where you have worms in oranges that are not passed by the Agricultural Commission in California.

Mr. CHILES. A situation that winds its way up into the Federal courts is not hypothetical. As to avocados it was not, and it was so held by the court, that it was not, on the basis of purported oil content or some kind of health reason, or other things. It was purely discriminatory.

Mr. TUNNEY. I cannot speak for every law and defend every law that California has passed. I am very pleased that if California had a discriminatory State statute, it was stricken down. We should not have discriminatory statutes as they relate to taxing products from out of State. It is wrong to do it, and it is completely contrary to the thrust of the Constitution, which eliminated tariff barriers among the States. That was the thing that made this country the great industrial Nation that it is. The Senator from Florida knows it and I know it.

We have here an anomaly in the law which allows States to discriminate unfairly against wine products that are produced in other States, New York, and California being two good examples, but other States receive the same kind of discrimination.

I do not see how the Senator can justify the existence of this type of discrimination by pulling out of the air a statute which the courts recognized that California was discriminating against a Florida product, and so struck down that statute. I am glad that Florida won that case. I would hope that the Senator would be on our side in this fight against those States that are trying to discriminate against our wine products.

Mr. CHILES. I am delighted that the Senator now is glad that if California was wrong, they got caught and that in the case of avocados, they have stopped doing that.

The Senator said to the Senator from Georgia, "We do not discriminate against your peanuts, and we do not discriminate against anyone else," but at the same time he did not seem to be concerned that California, like other States,

perhaps including my own, has made a practice of trying to promote and help their own products. It is right when one State does it but not all right when another State does it.

We are simply saying that, under the Constitution, we are not doing anything improper. The Supreme Court has held that we are not. This, under the 21st amendment, is a vestige—and it is one of the remaining vestiges—of States rights, where the States have the right to control and the right to exercise that control. That is no reason now, because the Constitution gives that right, that we should come in, on the basis of trade or anything else, and say we are going to take it away.

Mr. BUCKLEY. Mr. President, I commend my friend from California (Mr. TUNNEY) for his initiative on this matter. He has fully described the economic factors which require adoption of his amendment, as well as the equities that are involved.

I would like to examine a little further the constitutional and policy aspects.

Mr. President, a sound principle of American politics and interstate commerce is that goods should move between the States without suffering from discrimination enacted to protect locally owned enterprises. The expansion of State tariffs and other discriminatory practices soon after the American Revolution was a major factor in sealing the doom of the government created by Articles of Confederation. The constitutional provision giving the Congress the authority to regulate interstate commerce was the response to prevent the continuation of this type of restrictive legislation.

Today, a number of States tax wines moving in interstate commerce, but exempt locally grown wines from similar treatment. These State-supported preferences cause consumers to pay artificially higher prices for wines that have been produced outside the State. The sole purpose of this amendment is "to abolish discriminatory taxes, license fees, and other discriminatory burdens imposed by some States on wines produced outside the State or from materials produced outside the State."

A number of legitimate concerns have been expressed about this amendment, but each has been addressed and explained. Those States which presently restrict the sale of spirits to State-owned stores will in no way be compromised by this amendment. If they choose, they may continue that practice. What it does do is to bar discriminatory treatment of wines of the same class.

Another is the question whether the Congress has the authority to legislate on this matter in light of the 21st amendment to the Constitution. It has been argued by some that the 21st amendment prohibits any Federal regulation on the sale of spirits within a State. On March 19, 1974, I, with several colleagues, addressed that point in a letter to the members of the Senate Finance Committee:

> We believe . . . that the original purpose of the amendment was to permit dry states to protect themselves from the importation of liquor rather than to permit liquor-producing states to erect trade barriers against out-of-state products.

The Supreme Court of the United States has never determined to what extent, if any, the 21st amendment affects the power of the Congress under the Commerce Clause. (*Heublein, Inc.* v. *South Carolina Tax Commission* 409 U.S. 275 (1972). Failing such a determination to the contrary, it is, I think, sound public policy that the Congress support the free and nondiscriminatory flow of goods, including wine, across State lines.

Mr. McCLELLAN. Mr. President, will the Senator yield?

Mr. TUNNEY. I yield.

Mr. McCLELLAN. Is my understanding correct—I believe it is—that this particular amendment, drawn as it is so as to give the States the right to protect themselves and to have their independent laws with respect to alcohol and liquors, is one of the considerations that was advanced in support of repeal of the prohibition amendment? They had to use this as an inducement to get repeal of the prohibition amendment. Is that correct?

Mr. CHILES. I have read that that was one of the things.

Mr. McCLELLAN. That was one of the reasons.

Mr. CHILES. My memory does not tell me that.

Mr. McCLELLAN. I was around here at that time. Some other Senators were not. I recall it very well.

Mr. CHILES. I would certainly take the Senator's word.

Mr. TUNNEY. I can understand why the Senator from Florida is speaking as he does. Florida imposes a tax on out-of-State wine containing not more than 14 percent alcohol by weight of $1.15 per gallon, while similar wine produced from Florida fruits is taxed at 37 cents per gallon. Now I am beginning to understand the motive behind the Senator's States rights argument. That is a pretty good ripoff of the California wine producers, the New York wine producers, and the Florida consumer who wants to buy California and New York wines.

I would like to know how the Florida consumers would like to hear and know from their Senator that he is in favor of an additional tax of almost $1 per gallon on wines that they want to drink.

Mr. CHILES. I am delighted that the Senator from California gives me this opportunity, because that tax goes to send our children to school. It goes to provide some kind of education for our children. If the people who drink the California wine—which is a wonderful product that is getting higher and higher in cost—can afford it, they certainly ought to be willing to pay their share to provide for schoolchildren in our State and see that they get an education. For that reason, the Florida consumer, I think, is delighted. Perhaps the wine drinkers are a little upset about it at times, but I am here to speak for the schoolchildren.

Mr. TUNNEY. Is the Senator saying that there is a difference in the quality of the tax dollar for the education of children, when it is raised from out-of-State wine production rather than in-State wine production?

If this is such a great tax and creates such a wonderful benefit to the citizens of Florida, why not increase the tax on Florida's wine from 37 cents to $1.15, so that the benefits can be spread out even more?

Mr. CHILES. We try to do that. We make orange wine in Florida. I do not know whether the Senator from California has ever tried to drink any of it. It is not too good, to tell the truth. [Laughter.] But it is a way of trying to get some of the orange crop into use if there is no other way of using it. That, in turn, is going to be good for the people who work in the orange groves and for the people generally in Florida. We try to put a few oranges and blackberries into it. We are even trying to grow a few grapes in the panhandle of Florida, in what has been an economically depressed area. We are trying to provide jobs for our people. That is the basis upon which we in the State of Florida think it is fine to promote an industry.

By the same token, if you have 82 percent of the market, do not put all our little winegrowers out of business. Do not put them completely to the wall. It is not as though they are hurting you in any way. We are just trying to get a foot in the door. We are just trying to keep going.

Mr. TUNNEY. I wonder whether the average Florida wine drinker who drinks California and New York wines would like to hear his Senator arguing for a higher tax on those wines.

Mr. CHILES. I cannot get across to the Senator from California that I am not speaking for the average wine drinker. I am trying to speak for the people of Florida.

Mr. TUNNEY. Are the wine drinkers not people?

Mr. CHILES. They certainly are people. But I am more concerned about the livelihood of the people in Florida. I am more concerned about the kids we are trying to send to school in Florida than the guy who is able to afford California wine.

Mr. TUNNEY. I suggest, then, that Florida raise the tax on Florida wine products to the same level as the one imposed on out-of-State wine products. In this way, Florida will be able to do even more for the schoolchildren of the State. At the same time, it would not be unfairly discriminating against the products of another State.

It seems clear to me that if this argument were being raised in the case of a tax, we will say, by New York against Florida oranges, which would be discriminatory, the Senator from Florida would be the first one on the floor of the Senate arguing that there should not be discriminatory taxes among the States. He would be talking about how our country has become great because we do have a common market and do not have tariff barriers and trade discrimination.

Mr. CHILES. I will admit that if I had an opportunity to testify against California in the avocado case, I would say that I thought that was an unfair pro-

vision, to try to use something like an oil content, as saying that that governed whether Florida avocados could come in or not. We are all protective of our own States.

Mr. TUNNEY. Mr. President, I ask for the yeas and nays on this amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is not a sufficient second.

Mr. TUNNEY. Mr. President, I yield to my senior colleague.

Mr. CRANSTON. Mr. President, first, I ask unanimous consent to have printed in the RECORD a statement by Senator JAVITS, who is necessarily absent today, in connection with this amendment and in support of it.

The PRESIDING OFFICER. Without objection, it is so ordered.

STATEMENT BY SENATOR JAVITS

This amendment would require that each state treat any wine produced outside of the state as favorably as any other wine of the same class sold in the state. If any state prohibits the production, distribution and sale of wine within its borders this legislation would not interfere in any way with that prohibition.

The language makes very clear that the so-called "control states" (that is those states which themselves engage in the sale and distribution of alcoholic beverages) retain their authority to engage in the purchase, distribution of wine and its sale, and to exercise business discretion in the selection and listing of wines to be purchased, sold or distributed in those states. Included of course, would be the right of any state to exercise business discretion to remove wine or any wine from its listings.

This legislation passed the House by a vote of 248 to 152. I understand that Congresswoman Green of Oregon, a control state, raised some questions on the House floor, questions that had been put in her hands by the Oregon State Liquor Control Commission and from the office of her state's Governor. After she was assured of the protective language in the legislation as reported, Mrs. Green voted for the bill.

In addition, Representative Heinz of Pennsylvania, also a control state, voted for the bill and summarized his reasons by saying, "I, for one, am very proud to support any legislation which recognizes and supports a free, open and healthy economic system in the United States."

This amendment would:

(1) Make a congressional finding that the imposition by one State of discriminatory taxes or other measures on wine produced in other States or from materials produced in other States, and the imposition of unreasonable requirements for shipment into and sale or distribution of wine in a State, obstructs commerce among the several States;

(2) Make a congressional declaration that the legislation is enacted as an exercise of the power conferred on Congress by Article I, section 8, clause 3 of the United States Constitution to regulate commerce among the several States—the Commerce Clause (section 1 (B));

(3) Prohibit any State from imposing discriminatory taxes or other discriminatory measures on wines produced (A) outside of the State, or (B) from materials produced outside of the State (section 2);

(4) Make clear that each State retains the right to engage in the purchase, sale, or distribution of wine and the right to exercise business discretion in the selection and listing of any wines purchased, sold, listed, or distributed by the State (section 3);

(5) Give any interested person standing to file suit in a district court of the United States of competent jurisdiction to enjoin any discriminatory measures proscribed by the legislation (section 4).

I am delighted to join as a cosponsor of this important amendment and strongly urge its adoption by the Senate.

Mr. CRANSTON. Mr. President, I should like briefly to speak about this amendment, which is designed to prohibit discriminatory State taxation and imposts on wine.

This amendment, introduced by my distinguished colleague from California and myself, is virtually identical to H.R. 2096, which was passed over 1 year ago on September 11, 1973, by a vote of 248 to 152. Hearings on H.R. 2096 were held last winter in the Subcommittee on State Taxation of Interstate Commerce. The record of the hearings has been available since April.

This legislation is of great importance to California and to nearly 70,000 of its citizens who derive employment from the wine industry.

The sole purpose of the legislation is to prohibit a State from enacting discriminatory legislation against wine produced in some other State.

It is important to make clear what this legislation does and does not do. It does propose an end to artificial trade barriers by prohibiting States from imposing discriminatory taxes and imposts on wine produced in other States.

This legislation in no way affects the right of a State to regulate and control the manufacture, sale, or distribution of wine within its borders.

This legislation in no way affects the right of a State to legislate in any way necessary to its police powers.

This legislation does not affect the right of a State to prohibit the sale of alcoholic beverages.

This legislation does not affect the right of a State to levy excise or other taxes or license fees upon wine—but such legislation must treat all wines of the same classification alike, it may not discriminate against wines produced outside the State.

Wine is the only alcoholic beverage that is subject to substantial discriminatory taxation. Only one State imposes a very modest differential tax on beer brewed out of the State and two States impose similar differential taxes on distilled spirits from out of State. But eight States impose discriminatory taxes on out-of-State wines. The differentials are great, as much as $1.50 per gallon in one instance.

These taxes are anticompetitive and restrict access to major metropolitan markets. They raise prices to consumers. They clearly constitute a burden on interstate commerce. They are inflationary. They are exactly the sort of inhibitions to productivity and business that are concerning so many people in connection with the summit conference on inflation convened by the President of the United States.

The day of protective tariffs raised by one State against the produce of another State was supposed to have ended with the Articles of Confederation in 1787. Unfortunately, trade tariffs between States persist in the form of discriminatory taxes levied on wines produced in other States.

Our amendment is designed to end this discriminatory practice.

Mr. President, I now ask for the yeas and nays on the amendment.

The yeas and nays were ordered.

Mr. CRANSTON. A question has been raised concerning the power of Congress to enact this legislation in view of the 21st amendment. I think this point has been laid to rest by the Supreme Court's remarks in *Heublein* v. *South Carolina Tax Commission*, 409 U.S. 275 (1972).

Mr. CHILES. Will the Senator yield on that point?

Mr. CRANSTON. Certainly.

Mr. CHILES. Will the Senator tell me what the Supreme Court said on that and where it appeared in that case?

Mr. CRANSTON. In that case, the Court invited Congress to enact legislation if, in its judgment, that is wise or desirable. That was a footnote in the opinion.

Mr. CHILES. It was a footnote, so it was not even dictum in the case. It was a footnote somewhere in the case.

Mr. CRANSTON. Well, it represented the viewpoint of the Court.

Mr. CHILES. I am not sure that one can cite that as saying that the Supreme Court has spoken out, in view of the fact that it was not even dictum in the case. The case was not on all fours with that, and there is simply a footnote that has been cited.

I think maybe the Senator is stretching it a little bit to say that the Supreme Court has now gone on record. I say that I doubt very seriously that the Senator would find even Dean Griswold, even being in the pay of the wine industry, would stretch that point that far, to say that.

Mr. CRANSTON. Dean Griswold cited that in the opinion which I shall place in the RECORD shortly. I think that Dean Griswold is a widely respected man who would not render a legal opinion that he does not believe is a sound one.

The Court has made it clear, Mr. President, that the 21st amendment has not "repealed" the commerce clause or the equal protection clause. On the contrary, the Court has said explicitly that all of the provisions of the Constitution must be construed together, in order to make a coherent whole.

Former Solicitor General Erwin N. Griswold, whom we have already referred to in this discussion, has prepared a legal opinion under retainer from the Wine Institute in which he reaches the conclusion:

That there is no decision which forecloses the question of the constitutionality of H.R. 2096, and that it is entirely appropriate for Congress to legislate in this area.

The Department of Justice in comments on this legislation has said:

That if the Congress were to enact H.R. 2096, it would be necessary for the Supreme Court to reverse a well established line of precedent in order for this legislation to be sustained.

Former Solicitor General Griswold states:

I do not think that this point is well taken. There are, in fact, no decisions of the Supreme Court which decide a question involving the power of Congress to deal with a question of this sort; and the more recent decisions of the Court clearly leave that question an open one.

Mr. President, I ask unanimous consent that Mr. Griswold's letter to the Finance Committee be included in the RECORD, together with an excellent letter on the same issues prepared by Mr. Jefferson Peyser, longtime general counsel of the Wine Institute and an outstanding legal scholar on the legislative history of the 21st amendment and its subsequent interpretations by the Supreme Court.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

AUGUST 1, 1974.

COMMITTEE ON FINANCE,
U.S. Senate,
Washington, D.C.

GENTLEMEN: H.R. 2096 was passed by the House on September 11, 1973, and is now under consideration by this Committee. The purpose of this Bill is to eliminate discriminatory taxation by the states against wine produced outside the state. One of the questions before the Committee is the constitutionality of an Act of Congress on this subject.

This letter is written in a professional capacity. I have been retained by the Wine Institute to consider this question, and to give my opinion on it. Accordingly, I have examined the constitutional provisions, particularly the Twenty-First Amendment, the decisions of the Supreme Court which bear on this question, and also the material presented in the hearings which were held before this Committee on January 21, 1974. On the basis of this consideration, I have reached the conclusion that there is no decision which forecloses the question of the constitutionality of H.R. 2096, and that it is entirely appropriate for Congress to legislate in this area. The ultimate question of the constitutionality of the statute can be determined only by the Supreme Court. There is, however, in my opinion, a considerable likelihood that the Court would hold such a statute valid. And, it may be added that that question cannot be presented to the Court for decision unless the Congress expresses its views and policy in the area by the enactment of such a statute.

The Twenty-First Amendment to the Constitution was adopted in 1933. The first section of that Amendment repealed the Eighteenth Amendment. The second section of the Twenty-First Amendment reads as follows:

"The transportation or importation into any State, Territory, or possession of the United States for delivery or use therein of intoxicating liquors, in violation of the law thereof, is hereby prohibited."

In the first few years after the adoption of the Twenty-First Amendment, four cases came before the Supreme Court involving its construction and application. The opinions in all of these cases were written by Justice Brandeis. The first of these cases is *State Board* v. *Young's Market Co.*, 299 U.S. 59 (1936). This case involved a statute of California providing for a license fee of $500 for the privilege of importing beer into the state. In reaching this result, the Court used some broad language. It said, with respect to the second section of the Twenty-First Amendment, that "The words used are apt to confer upon the state the power to forbid all importations which do not comply with the conditions which it prescribes." 299 U.S. at 62. And it added "If it may permit the domestic manufacture of beer and exclude all made without the state, may it not, instead of absolute exclusion, subject the foreign article to a heavy importation fee?" 299 U.S. at 63.

This language is undeniably broad. However, the decision in the case must be examined with the aid of the standard tools of constitutional history and construction. Often the law starts its growth and development through a decision which, though involving a narrow issue, uses broad or sweeping language. Thereafter, the initial decision is narrowed and sharpened as new cases arise involving different facts and other constitutional considerations.

In this light, several observations may be made about the decision in the *Young's Market* case. In the first place, it did not involve any Act of Congress. Thus, the decision, as such, does not deal with the power of Congress to enact legislation to prevent discrimination in this area. In the second place, when the opinion of the Court in *Young's Market* is examined more closely, it becomes apparent that the case did not involve any invidious discrimination. Everyone agrees that, under the Twenty-First Amendment, each state has unlimited power to exclude intoxicating liquors, and also that it has very broad powers to regulate storage, transportation, sale, and other traffic in intoxicating liquors within the state, whether these liquors are locally produced or come into the state from outside its borders. The Supreme Court recognized that this would be enough to support the validity of the statute, for it said that "we cannot say that the exaction of a high license fee for importation may not . . . serve as an aid in policing the liquor traffic." 299 U.S. at 63. Moreover, the Court finally reached its conclusion in the *Young's Market* case on the ground that there was in fact no adverse discrimination so that the Equal Protection Clause would not be violated if it is applicable. It pointed out that the domestic brewer in California is required to pay a license fee of $750 a year for the privilege of manufacturing beer. It then observed: "The brewer of the foreign article cannot be so taxed [for manufacturing]; only the importer can be reached. He is subject to a license fee of $500." 299 U.S. at 64.

Thus, though some of the language in the *Young's Market* opinion is quite broad, the actual decision is very narrow. It was not necessary for the Court to discuss the general applicability of the Commerce Clause, since it recognized that the fee bore a reasonable relation to clearly proper regulation by California. And it was not necessary for the Court to discuss the Equal Protection Clause, since, as the Court pointed out, the importer's fee was actually less than the manufacturer's fee, and thus there was no discrimination.

Two years later, the case of *Mahoney* v. *Joseph Triner Corp.*, 304 U.S. 401 (1938), came before the Court. This involved the validity of a Minnesota statute which provided that no liquors could be imported for sale in Minnesota "unless such brand or brands shall be duly registered in the Patent Office of the United States." The Court held that this regulation was valid.

Again, the Court used sweeping language. "That, under the amendment, discrimination against imported liquor is permissible although it is not an incident of reasonable regulation of the liquor traffic, was settled by *State Board of Equalization* v. *Young's Market Co.*, 299 U.S. 59, 62, 63." 304 U.S. at 403.

Again, there is no difficulty with the result of the decision, although the language quoted is broad. No question of taxation was involved. And the statute does not in any way involve the validity of an Act of Congress in the area. Moreover, the Minnesota statute was clearly an incident to its regulation of the liquor traffic within its borders, and thus clearly within the terms and purpose of Section 2 of the Twenty-First Amendment.

In the next year, two cases were decided, which presented substantially identical questions. These were *Indianapolis Brewing Co.* v. *Liquor Control Commission*, 305 U.S. 391 (1939), and *Joseph S. Finch & Co.* v. *McKittrick*, 305 U.S. 395 (1939). Both of these cases involved retaliatory statutes. In the *Indianapolis Brewing Co.* case, Michigan had a law forbidding dealers in Michigan to sell beer manufactured in a state which discriminated against Michigan beer. The Court held that this was valid. It said (305 U.S. at 394):

"Since the Twenty-first Amendment, as held in the *Young* case, the right of a state to prohibit or regulate the importation of intoxicating liquor is not limited by the commerce clause; and, as held by that case and *Mahoney* v. *Joseph Triner Corp.*, 304 U.S. 401, discrimination between domestic and imported intoxicating liquors, or between imported intoxicating liquors, is not prohibited by the equal protection clause."

Similarly, in the *Joseph S. Finch* case, likewise involving an antidiscrimination statute, the Court said that, since the Twenty-First Amendment, "the right of a State to prohibit or regulate the importation of intoxicating liquor is not limited by the commerce clause." 305 U.S. at 398. In support of this statement, Justice Brandeis cited his opinions in the *Young's Market, Triner*, and the *Indianapolis Brewing Co.* cases.

These early decisions are, of course, very important and significant. Their language is undeniably broad. The actual decisions, however, are relatively narrow, and much of the language used in the several opinions was not necessary to the actual decision. Moreover, none of the cases involved the validity of an Act of Congress in this area.

If these cases were all that is available on the construction of the Twenty-First Amendment, they would present a serious, though not necessarily fatal, obstacle to the validity of H.R. 2096. However, there have been subsequent decisions; and the cases decided in the 1930s must be considered in the light of the more recent decisions of the Court in any effort to determine the present status of constitutional law and doctrine in this area.

Within the next few years, it became apparent that the power of Congress under the Commerce Clause with respect to intoxicating liquors was not wholly terminated by the adoption of the Twenty-First Amendment. Indeed, this was plainly decided almost contemporaneously with the latest of the four decisions referred to above. In *Jameson & Co.* v. *Morganthau*, 307 U.S. 171 (1939), the appellant contended that federal regulations with respect to the labeling of imported whiskey were invalid, and that the Federal Alcohol Administration Act was unconstitutional and void. This argument was based on "the ground that the Twenty-First Amendment to the federal constitution gives to the States complete and exclusive control over commerce in intoxicating liquors, unlimited by the Commerce Clause, and hence that Congress has no longer authority to control the importation of these commodities into the United States." The Court dealt with this summarily in a Per Curiam opinion. It said: "We see no substance in this contention." 307 U.S. at 173.

Then, a few years later, in *United States* v. *Frankfort Distilleries*, 324 U.S. 293 (1945), the Court held that a federal prosecution under the Sherman Act for fixing retail prices of alcoholic beverages was not proscribed by the Twenty-First Amendment. The Court pointed out that this was not "a case in which the Sherman Act is applied to defeat the policy of the state." It then said: "That would raise questions of moment which need not be decided until they are presented." 324 U.S. at 299. Thus, the Court clearly indicated that such questions under the Commerce Clause

were still open for consideration, and were not foreclosed by the prior decisions of the Court.

Similarly, a number of cases held that the price control laws enacted by Congress, during World War II, were applicable to intoxicating liquors. *Jatrose* v. *Bowles*, 143 F. 2d 453 (C.A. 6th, 1944); *Barnett* v. *Bowles*, 151 F. 2d 77 (Em.Ct.App. 1945), certiorari denied, 326 U.S. 766 (1945); *Dowling Brothers Distilling Co.* v. *United States*, 153 F. 2d 353, 357 (C.A. 6th, 1946), certiorari denied, 328 U.S. 848 (1946). In the *Jatrose* case, the Court said that the Twenty-First Amendment "does not, however, deprive the national government of all authority to legislate in respect to interstate commerce in intoxicants." 143 F. 2d at 455. It is true that these cases involve an exercise by Congress of the War Power as well as the Commerce Power. However, the Commerce Power was relied upon in the opinions. And, if the War Power survives the Twenty-First Amendment, as it clearly does, there is no reason why the other clauses of the Constitution may not retain some vitality in appropriate circumstances.

See also *Duckworth* v. *Arkansas*, 314 U.S. 390 (1941), and *Carter* v. *Virginia*, 321 U.S. 131 (1944), where, in cases involving the transportation of liquor through a state, the Court proceeded in terms of the Commerce Power, "independently of the Twenty-first Amendment." 321 U.S. at 135.

In the past ten years, there have been at least four decisions by the Supreme Court which substantially affect the problem. The first of these is *Hostetter* v. *Idlewild Bon Voyage Liquor Corp.*, 377 U.S. 324 (1964), in which the opinion was written by Justice Stewart. The case involved the sale of liquor at Idlewild airport, delivered to departing passengers after their plane had left the country. These transactions were carried out in accordance with United States Customs regulations. The New York State Liquor Authority ruled that the business was illegal under the New York Alcoholic Beverage Control Law "because the business was unlicensed and unlicenseable under that law." 377 U.S. at 326. The dealer then brought suit for an injunction and declaratory judgment, relying on the Commerce Clause and the Supremacy Clause of the Federal Constitution.

The Court decided in favor of the dealer. It said (377 U.S. at 331):

"To draw a conclusion from this line of decisions that the Twenty-first Amendment has somehow operated to 'repeal' the Commerce Clause wherever regulation of intoxicating liquors is concerned would, however, be an absurd over-simplification. If the Commerce Clause has been *pro tanto* 'repealed,' then Congress would be left with no regulatory power over interstate or foreign commerce in intoxicating liquor. Such a conclusion would be patently bizarre and is demonstrably incorrect. In *Jameson & Co.* v. *Morgenthau*, 307 U.S. 171, 'the Federal Alcohol Administration Act was attacked upon the ground that the Twenty-first Amendment to the Federal Constitution gives to the States complete and exclusive control over commerce in intoxicating liquors, unlimited by the commerce clause, and hence that Congress has no longer authority to control the importation of these commodities into the United States.' The Court's response to this theory was a blunt one: 'We see no substance in this contention.' Id., 307 U.S. at 172–173. See also *United States* v. *Frankfort Distilleries*, 324 U.S. 293. (Sherman Act.)

"Both the Twenty-first Amendment and the Commerce Clause are parts of the same Constitution. Like other provisions of the Constitution, each must be considered in the light of the other, and in the context of the issues and interests at stake in any concrete case."

This decision is of very great significance on the present problem. The Court's emphatic statement that "the Twenty-first Amendment and the Commerce Clause are parts of the same Constitution" would seem to be equally applicable to the Equal Protection Clause and to other Constitutional provisions. This does not mean that the Commerce Clause and the Equal Protection Clause are unaffected by the Twenty-First Amendment. It does mean clearly that the Commerce Clause and the Equal Protection Clause and other provisions of the Constitution are not completely eliminated when set up along side the Twenty-First Amendment. The several provisions of the Constitution must be construed together and the Twenty-First Amendment does not eliminate the powers of Congress beyond what is necessary to achieve the purpose of the Twenty-First Amendment.

On the same day, the Court decided another significant case, also in an opinion by Justice Stewart. This is *Department of Revenue* v. *James B. Beam Distilling Co.*, 377 U.S. 3417 (1964). The case involved a tax imposed by Kentucky on whiskey imported from abroad. The Court held that this was barred by the Export-Import Clause of the Constitution, Article I, Section 10, clause 2. Despite the unqualified terms of Section 2 of the Twenty-First Amendment, and the broad language of its early decisions in this area, the Court said:

"This Court has never so much as intimated that the Twenty-first Amendment has operated to permit what the Export-Import Clause precisely and explicitly forbids." 377 U.S. at 344.

The next decision is *Joseph E. Seagram & Sons* v. *Hostetter*, 384 U.S. 35 (1966). Here again the opinion was written by Justice Stewart. The *Seagrams* case raised the question of the validity of price control regulations made by New York with respect to liquor sold in the state. The Court held that these regulations were valid, and did not violate the Commerce Clause. In reaching this result, the Court referred to its decision in *Hostetter* v. *Idlewild Liquor Corp.*, 377 U.S. 324 (1964), discussed above, and said: "As the *Idlewild* case made clear, however, the second section of the Twenty-first Amendment has not operated totally to repeal the commerce clause in the area of the regulation of traffic in liquor." 384 U.S. at 42. The Court held that the New York statute did not violate the Commerce Clause. It then went on to consider questions raised under the Supremacy Clause, the Due Process Clause, and the Equal Protection Clause 384 U.S. at 45–51. It considered each of these questions on the merits, and did not suggest that any of these clauses was wholly superseded by the Twenty-First Amendment. With respect to the Equal Protection Clause, the Court said: "We do not find that these differentiations constitute invidious discrimination." 384 U.S. at 50. Thus, the Court left room for the inference that if there was invidious discrimination, the Equal Protection Clause might be applicable. Moreover, the decision does not deal in any way with the question of the validity of an Act of Congress in this area, based upon the Commerce Clause, if the Congress should find that such a state requirement was an undue burden on interstate commerce, inadequately related to the powers given to the states by Section 2 of the Twenty-First Amendment.

The most recent decision of the Court in this area is *Heublein, Inc.* v. *South Carolina Tax Commission*, 409 U.S. 273 (972). This case involved a statute of South Carolina which required an importer of liquor into the state to take actions in the state which were sufficient to subject it to the state's income tax, within the provisions of the Act of Congress of September 14, 1959, 5 U.S.C. 381(a).

The Court held that the regulation made by South Carolina was valid under the Twenty-First Amendment, as "an appropriate element in the State's system of regulating the sale of liquor." 409 U.S. at 283. This case, it should be noted, does involve an Act of Congress under the Commerce Clause. However, the Act was not held invalid. It was simply construed as inapplicable under the circumstances. The Court did not deal with the question of the power of Congress to act, under the Commerce Clause, so as to invalidate a state tax in a situation like that before the Court. Indeed, the Court expressly left that question open. It said, in the opinion of Justice Marshall (409 U.S. at 282, n.9):

"And, though the relation between the Twenty-First Amendment and the force of the Commerce Clause in the absence of congressional action has occasionally been explored by this Court, we have never squarely determined how that Amendment affects Congress' power under the Commerce Clause. Cf. *Schwegmann Bros.* v. *Calvert Distillers Corp.*, 341 U.S. 384 (1951).

This completes my review of the decisions of the Supreme Court in this area. How should they be evaluated?

It is clear that there has been a development in the decisions, from the early cases, in the 1930s, to the more recent cases in the past ten years. It is now clearly established that Section 2 of the Twenty-First Amendment does not "repeal" the Commerce Clause or the Export-Import Clause with respect to intoxicating liquors. The Court has said that these clauses and the Twenty-First Amendment are all parts of the same Constitution, and must be construed together. In so construing the entire Constitution, the Court has found various areas where the constitutional provisions, and the power of Congress, remain effective despite the adoption of the Twenty-First Amendment.

Although I know of no case explicitly saying so, it is clear that the same principle is applicable to the Due Process Clause and the Equal Protection Clause of the Fourteenth Amendment. For example, suppose that a state should enact that only red-headed persons could import liquor from outside the state. Is there any doubt that this would violate the Equal Protection Clause—or, that Congress could, in the exercise of its power, under Section 5 of the Fourteenth Amendment, enact a statute invalidating this requirement? Or, to present the same point another way, suppose that a state enacted a statute saying that the liquor business in the state could only be carried on by white Anglo Saxon Protestants. It seems equally clear that the Equal Protection Clause, or the power of Congress to enforce the Equal Protection Clause, would be applicable to invalidate such a discriminatory provision.

It is in this light, then, that we consider the power of Congress to deal with state taxing statutes which discriminate against extra-state wine. It is clear that under the Twenty-First Amendment, the states have very wide powers to "regulate" traffic in intoxicating liquors. They can forbid it entirely, and they can provide requirements, including stringent requirements, designed to protect the state and its inhabitants against illegal conduct of the liquor business.

But the taxes to which H.R. 2096 is directed are not regulatory in nature. They do not operate to control the liquor business, in a regulatory sense. On the contrary, their objective is economic, not regulatory, as appears clearly in the Hearings before this Committee on January 21, 1974. Various statements before the Committee show that the purpose of these statutes is to act like a tariff barrier—not to exclude out-of-state wine, and not to regulate out-of-state or domestic wine, but simply to provide a greater margin of profit for domestic pro-

ducers. Such an objective, it may well be contended, is outside the proper scope of the power given to the states by Section 2 of the Twenty-First Amendment; and it is equally the sort of action which is barred by both the Commerce Clause and the Equal Protection Clause, or by a statute enacted by Congress pursuant to its powers under one or another or both of those clauses.

An early commentator said that "state liquor legislation escapes the interdict of the Commerce Clause and other constitutional limitations only when representing a valid exercise of state police powers." "The Twenty-First Amendment v. The Interstate Commerce Clause," 55 Yale L.J. 815, 816. Of course, the power given to the states by Section 2 of the Twenty-First Amendment either to prohibit or to regulate the liquor traffic is very great. But, in the light of its history, it is a power to prohibit or to regulate, and not a power to impose invidious discriminations which bear no relation to regulation. The point was made in another case, not involving the Twenty-First Amendment, where the New York Milk Control Act was invalidated. The Court said:

"Neither the power to tax nor the police power may be used by the state of destination with the aim and effect of establishing an economic barrier against competition with the products of another state or the labor of its residents." *Baldwin* v. *GAF Seelig*, 294 U.S. 511, 527 (1935).

Thus, it is my conclusion that the validity of H.R. 2096 is at least a wide open question and that strong arguments can be made, based on the more recent decisions, that H.R. 2096 is constitutionally valid. As I have indicated, the Court has made it clear that the Twenty-First Amendment has not "repealed" the Commerce Clause, or the Equal Protection Clause. On the contrary, the Court has said explicitly that all of the provisions of the Constitution must be construed together, in order to make a coherent whole. No case has held an Act of Congress in this area to be invalid; and the Court has, in its most recent decision, invited Congress to enact legislation if, in its judgment, that is wise or desirable. *Heublein, Inc.* v. *South Carolina Tax Commission*, 409 U.S. 275, 282, n. 9. It is clear, in my opinion, that enactment of H.R. 2096 would in no sense be an affront to the Court, or in conflict with the present current of its decisions.

The Department of Justice has said "that if the Congress were to enact H.R. 2096, it would be necessary for the Supreme Court to reverse a well established line of precedent in order for this legislation to be sustained." Hearing before the Subcommittee on State Taxation of Interstate Commerce, January 21, 1974, p. 2. See also, Id., p. 28. As I have shown above, I do not think that this point is well taken. There are, in fact, no decisions of the Supreme Court which decide a question involving the power of Congress to deal with a question of this sort; and the more recent decisions of the Court clearly leave that question an open one.

H.R. 2096, as drafted, relies, in Section 1, wholly on the Commerce Clause. I would suggest that it be amended so as to rely also on the power given to Congress by Section 5 of the Fourteenth Amendment to enforce the Equal Protection Clause and other provisions of that Amendment. I would only add that, with respect to wine imported from outside the country, these discriminatory state taxes may amount, in substance and effect, to a tax on imports, and thus be invalid under Article I, Section 10, clause 2 of the Constitution, the Export-Import Clause, as already decided by the Supreme Court in *Department of Revenue* v. *James B. Beam Distilling Co.*, 377 U.S. 341 (1964).

Very truly yours,

ERWIN N. GRISWOLD.

FEBRUARY 6, 1974.

Re H.R. 2096.

Hon. WALTER F. MONDALE,
Chairman, Senate Subcommittee on State Taxation of Interstate Commerce, New Senate Office Building, Washington, D.C.

DEAR CHAIRMAN MONDALE: At the hearing concerning H.R. 2096 before the Subcommittee on State Taxation of Interstate Commerce of the Committee on Finance held on January 21, 1974, you expressed interest in the propriety of Federal legislation to prohibit discrimination against out-of-state wines.

An answer is provided by Justice Louis Brandeis (whose Supreme Court decisions interpreting the Twenty-First Amendment made state discrimination against wines possible). On January 9, 1915, less than a year and a half before he was elevated to the Supreme Court, Louis Brandeis addressed the House Committee on Interstate and Foreign Commerce, the same Committee which reported H.R. 2096 in 1973, as follows:

"Congress has the ultimate power to decide the matter of public policy for the nation. The Supreme Court has the right to determine what is public policy in a limited number of cases *as long as Congress has not declared what it is. If the Supreme Court has made an error, it is the duty of Congress to correct the error.* (Emphasis supplied.)

"In a very large number of cases where questions of strict law are before the court we have to accept the decision of the court as the highest authority. But on a question of public policy it is no disrespect to the Supreme Court to say that the majority of the court were mistaken. There is no reason why five gentlemen of the Supreme Court should know better what public policy demands than five gentlemen of Congress. (Emphasis supplied.)

"In the absence of legislation by Congress, the Supreme Court expresses its idea of public policy, but in the last analysis it is the function of the legislative branch of the government to declare the public policy of the United States. There are a great many rules which the Supreme Court lays down which may afterwards be changed, and are afterwards changed, by legislation. It is no disrespect to the Supreme Court to do it. *Their interpretations of law may be set aside by a new law.*

"It may be expressed by constitutional amendment or by act of Congress." Quoted in the Brandeis Guide to the Modern World 64–65 (A. Lief ed. 1941.) (Emphasis supplied)

H.R.2096 is manifestly the kind of act of Congress to which Mr. Brandeis referred. It cannot be doubted that a central policy of the Founding Fathers was to establish a single trading union among the several states.

In the Brandeis decisions, the Supreme Court has established a policy which allows states to discriminate against wines produced in other states. H.R. 2096 seeks merely to remedy the economic evils caused by discriminatory trade barriers erected pursuant to what we feel are incorrect judicial interpretations of the Twenty-First Amendment.

The Commerce Clause was clearly adopted by the framers of the Constitution to prevent economic balkanization. However, because of the judicial interpretations of the Twenty-First Amendment, the wine industry has been denied the protection afforded by the Commerce Clause. It is necessary to look to the Congressional debates at the time. Section 2 of the Twenty-First Amendment was drafted in order to determine the public policy underlying the enactment of that Section.

There can be no question that the sole purpose of Section 2 was to protect states which wished to remain dry states after the repeal of the Eighteenth Amendment (Prohibition). At the hearing before your Subcommittee I discussed the remarks of Senator Borah during the Senate debate on Section 2. The debates contain other similar examples of Congressional intent, some of which I wish to reproduce for the record.

Senator Fess stated:

"The second section of the joint resolution that is now before us is designed to permit the federal authority to assist the states that want to be dry to remain dry. I am in favor of that." (76 Cong. Rec. 4168.)

Senator Robinson, who had moved to strike Section 2, withdrew his motion and stated:

"I do not wish the Senate to put itself in the position of denying any measure of protection to dry territory." (76 Cong. Rec. 4171.)

In the House of Representatives, Representative Tierney, who supported the resolution, had the following to say:

"I feel that one of the strongest elements in this measure is the feature which gives to each state the right to regulate its own liquor traffic free from wet states' interference or so-called regulation by the present government's discredited prohibition service. It will aid and protect the so-called dry states in permitting them to exclude, if their citizens so wish, all liquor traffic in their domains." (76 Cong. Rec. 4526.)

Numerous other quotes indicating that Section 2 of the Twenty-First Amendment was aimed solely at allowing states to remain dry could be included. Suffice it to say that nowhere in the Congressional debates is there any indication that Congress wished to allow wet states to discriminate against alcoholic beverages produced outside the state. The policy of Congress was clear, states wishing to prohibit alcoholic beverages could do so.

The Supreme Court, in the Brandeis decisions, engaged in judicial legislation by allowing states to discriminate against out-of-state wines. H.R. 2096 merely would restore the law to its status prior to Prohibition and would assert Congressional policy as expressed in the debates on the Twenty-First Amendment.

Recently, in the case of *Heublein v. South Carolina Tax Commission* 409 U.S. 275 (1972). Justice Marshall writing for the majority of the court noted:

"And though the relation between the Twenty-First Amendment and the force of the Commerce Clause in the absence of Congressional action has occasionally been explored by this Court, we have never squarely determined how that Amendment affects Congress' power under the Commerce Clause."

H.R. 2096 would provide the vehicle for determining the relationship between the Commerce Clause and the Twenty-First Amendment. (It would be futile to attempt a court case where a state discriminates against out-of-state wines without Congressional action expressing its intent pursuant to its Commerce powers, indicating that discrimination against wine shall not be allowed.) The futility of an effort to bring a court case in the absence of legislation such as H.R. 2096 is made manifest by the fact that all of the Brandeis decisions and subsequent cases challenging the Twenty-First Amendment have upheld the rights of a state to discriminate.

At the Subcommittee hearing on January 21st, opponents of the bill claimed that the measure was contrary to the interests of small wineries. One owner of a winery who testified against the bill has a storage capacity of two million gallons. In California, there are 134 wineries with storage capacity of less than two million gallons and 103 wineries in

California with a storage capacity of less than 500,000 gallons. These wineries operating in a state that does not discriminate do not appear to need protective legislation in order to survive. In New York, 21 wineries have a storage capacity of less than two million gallons and 19 of those wineries have a storage capacity of less than 500,000 gallons. The majority of the New York wineries, as well as the vast majority of California wineries, are smaller than the opponent of the measure yet the number of wineries in New York and California continues to grow. Wine, like other products, should be sold on the basis of quality and consumer demand and not by virtue of protectionist barriers.

Very truly yours,

JEFFERSON E. PEYSER,
General Counsel, Wine Institute.

Mr. CRANSTON. Mr. President, I yield the floor.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

Mr. McCLELLAN. Mr. President.

The PRESIDING OFFICER. The Senator from Arkansas is recognized.

Mr. McCLELLAN. Mr. President, before the motion to table is made, I want to make one or two very brief observations.

I oppose the pending amendment and I oppose the bill pending in the Senate, which I understand is identical to the amendment. I oppose both of them because this amendment is tantamount to amending the Constitution of the United States, or to attempt to do so.

I oppose it because, if enacted, the tendency of it and the effect and result of it will be to perpetuate and strengthen an already existing monopoly in the wine industry in this country.

I oppose it because it transgresses, as I said, the Constitution of the United States in that the amendment to the Constitution which it contravenes was adopted with a provision that was to accommodate the several States of the Nation, particularly those who wanted to have absolute control over alcoholic beverages in their State.

That is a concession that was involved in the repeal of the prohibition amendment. That language in the Constitution, Mr. President, is so plain and unambiguous that it is susceptible of no other interpretation except that it restored to the States in the matter of alcoholic beverages the right to control alcoholic liquors in their States irrespective of the commerce clause of the Constitution of the United States. The 21st amendment, among other things, says:

> The transportation or importation into any State, territory, or possession of the United States for delivery or use therein of intoxicating liquors, in violation of the law thereof, is hereby prohibited.

Mr. President, had they wanted, in this amendment, to have the commerce clause in the Constitution apply, it would have been easy to have said so. But it absolutely, Mr. President, with respect to this one commodity, this one product, would supersede the commerce clause of the Constitution, and give absolute control to the several States.

Mr. President, I do not wish to speak at length. I simply wanted to lay this foundation. There will no doubt be considerable discussion of this amendment long before any vote is had on it. There are a number of Senators who cannot be here this afternoon, I understand, who wish to speak on it or who oppose it, and they should be given that opportunity.

Mr. President, I made the statement a moment ago that the adoption of this amendment or the passage of the bill with which this amendment is identical would have the effect of perpetuating what already exists, and strengthening a monopoly with respect to the production of wine in the United States. This is unconscionable. Two States, California and New York, now produce 92.7 percent of all the wine produced in the United States. Add two other States to that list, Illinois and New Jersey, and what they produce, and those four States produce 97 percent of the wine produced in the United States.

There are 10 other States that produce the remaining 3 percent of the wine produced in the United States. My State of Arkansas produces three-tenths of 1 percent, or, that is, three bottles out of every thousand that are produced in the United States. A number of other States produce similar amounts. Georgia is the same, Ohio is the same, and other States. Florida produces only five-hundredths of 1 percent, Oregon 1 percent, and Mississippi 1 percent.

Mr. President, this is, it appears to me, a most unreasonable and most unjustified attempt to impose or to gain absolute control of one product by two or three States that I can possibly conceive of. The wineries in these States like Arkansas—I am more familiar with it, of course, than the others—obviously are all in about the same situation. A State like Arkansas, which can and does produce very good grapes, has an infant industry. It produces grapes and sells them to the grape juice producing companies, and now it is undertaking to develop wine production. We have two or three companies that are in the business of trying to produce wine and build up a business for that purpose. But, Mr. President, when they go up against these giants that are spending not a few dollars, but millions and millions of dollars advertising throughout the country when they have already gained nearly 93 percent of the market of the United States. Having already done that, they have the money to spend for advertising, and these little infant industries, struggling to get a start with their own native products, products that grow in their States, trying to develop a market for them in the wine industry, are to be restrained by a blatant attempt to abrogate the Constitution. This is something that I think the Senate should take notice of, give it the kind of treatment that it deserves, and defeat this amendment. It should be tabled, and I hope that a motion will be made to lay it on the table, and that the result will be the adoption of the motion.

Mr. President, one other point in connection with this matter is that when a small business is struggling against the power of the giants to crush it, if this clause in the Constitution will not hold—and one of the purposes of it was to give States exclusive power to control the importation of alcoholic liquors into the State, to regulate it, and to abrogate the commerce clause of the Constitution insofar as this product is concerned—insofar as it relates to the States that want to control alcoholic beverages, it is going pretty far when we take an amendment like this and undertake, Mr. President, to circumvent the Constitution in this fashion.

There have been a number of cases—I do not need to recite them at this time, but later we shall furnish them for the RECORD—where the court has sustained the position that I have asserted here with respect to the constitutional amendment. These cases should be of some guidance to the Senate in taking into account whether it wants to enact an unconstitutional law.

Another thing, Mr. President, that seems to me to be wrong with this proposal is that the original bill is pending in the Senate, the bill to which this amendment, being offered here on another bill, is identical. Mr. President, that bill has been in committee all this year. I do not remember when it was introduced, but I remember I testified before the Committee on Finance on that measure sometime in January of this year. That bill has been pending there, with the opportunity for due process under the rules of the Senate. But that bill not having been brought out of that committee in its own right, to offer this wine proposal as an amendment to a bill dealing with daylight saving time, I think, might be held, Mr. President, to be not only unrelated to the bill, but not germane to the time.

People, as far as I know, drink wine in daylight and drink wine at night, and whether the sun is shining or the moon is shining does not have anything to do with whether one buys a keg of wine or whether he takes a drink of it.

I think the amendment is not germane. This is not the proper place to consider it and, therefore, these things should be taken into account.

We are here trying to circumvent in this amendment the orderly procedure under the rules of the Senate, and I just think that we ought to take that into account.

I am glad to yield to the distinguished Senator from Mississippi.

Mr. STENNIS. Mr. President, I thank the Senator for yielding, and I shall be brief.

First, I think he has made an unanswerable argument here on the merits or the demerits of the amendment itself, even though not a single Member here is indifferent to any problem our friends, the Senators from California, have.

I have been for a long time interested in the daylight saving bill, and I have been, along with many others, working on this bill for months. I have not found a single Senator who was against the idea of making some adjustment in the present law as to daylight saving.

But there is a difference of opinion among us. Some wanted to have 6 months of daylight saving time and 6 months of what I call regular time, and others wanted the division of 8 and 4. Others wanted 9 and 3.

So after conferring, discussing and debating ideas we finally came to a conclusion we could all stand on together,

and this bill provides for the 8 and 4 division of the months, the 4 months being November, December, January, and February.

I think it is generally agreed that there is no substantial saving in energy today by the present law, and it is also agreed that there are many other very strong reasons, including the idea of the schools and school children getting back on a more practical time. So I certainly hope the bill will pass in its present form and it will not even have to go back to conference, just go directly to the White House where, I am sure, it will be favorably received.

Many of our transportation systems and many other interested parties will get a chance to change schedules, adjust to it. It is not something that can be done overnight. We owe it to those people to give them a reasonable time.

I thank the Senator very much for yielding.

Mr. McCLELLAN. Yes, Mr. President, I want to support the pending bill. I would like to see it enacted because I favor its provisions.

But, Mr. President, this bill will be slow of enactment if this amendment should be attached to it, and I hope that will not occur.

I understand the distinguished Senator from Kansas (Mr. DOLE) wishes to make a motion to table the amendment, but before he does so I would like to yield the floor to the distinguished Senator from Alabama (Mr. ALLEN).

Mr. ALLEN. I thank the distinguished Senator from Arkansas, and also the distinguished Senator from Kansas for allowing me to say a few words before he makes the motion to table which, I hope, of course, will prevail.

Mr. President, this is a special interest amendment if there was ever a special interest amendment. It is an amendment for the special interest of the wine producers in California and in New York.

Mr. TUNNEY. Mr. President, will the Senator yield for a question?

Mr. ALLEN. Yes; I yield.

Mr. TUNNEY. Is it not in the special interests of the consumers of Alabama and other States who must pay higher prices for wine that is produced in California and New York and Illinois because there are discriminatory taxes?

Mr. ALLEN. Frankly, I do not believe the distinguished Senator from California is worried about the consumers in Alabama. I think his interests—since he has asked—are the wine producers of California.

Mr. TUNNEY. Is the Senator from Alabama concerned about the consumers of Alabama?

Mr. ALLEN. Yes; I am very much concerned about them.

Mr. TUNNEY. Well, would they not receive a cheaper priced wine, California wine?

Mr. ALLEN. I do not want to get into an argument with the Senator. I merely yielded for him to make a comment. I do not want him to use my time listening to his argument. He occupied the floor for some 30 minutes, and I was interrupted after making one statement.

But, Mr. President, this is a special-interest amendment sought to be added to a bill of general public interest. The bill before the Senate, managed by the distinguished Senator from Illinois (Mr. STEVENSON), is a bill that will return to the old system of time and will do away with year-round daylight saving time; leaving, I believe, 8 months without daylight saving and 4 months with daylight saving.

This amendment sought to be added by the distinguished Senator from California to the daylight saving bill would benefit the wine producers in California and in New York who already corner 93 percent of the market in this product, as stated by the distinguished Senator from California.

Mr. President, I am reminded of the old Biblical story of David and Bathsheba. After David had taken Bathsheba away from Uriah the Hittite, and had made her his wife after Uriah was killed, the prophet Nathan came to denounce David for having done this, and he told this parable about the rich man who had, I believe, 99 sheep, and the poor man who had one little lamb.

The rich man with the 99 sheep—not 93 percent as the California and New York States together have but 99 sheep—when he had company visiting him he wanted to prepare a banquet for the company. So instead of killing one of his own sheep he went and got or stole the lamb of the poor man who had only one lamb, and he killed that and made a feast for his company. David asked Nathan who the man was so that he could be punished and Nathan said to David, "Thou art that man."

So here we have the possessors of 93 percent of the market trying to get the rest of the market and preventing the States which wish to impose conditions on the entry of New York and California wine into their States, from imposing those conditions which are clearly permitted by the 21st amendment to the Constitution which repealed the 18th amendment.

Here in a statement in behalf of the bill, of which the amendment is a counterpart, the witness in behalf of the Wine Institute, in giving some legislative history says:

> The legislative history of the 21st amendment, as indicated by the debates relative to the repeal of the 18th amendment, discloses that there were three subject matters of prime concern: repeal of the 18th amendment; second, assurance that there should be no return of the saloon; and, three, that the integrity of the dry States be protected.

Now, in order to protect the integrity of the dry States they added this language to the 21st amendment before its submission:

> The transportation or importation into any State, Territory, or possession of the United States for delivery or use therein of intoxicating liquors, in violation of the laws thereof, is hereby prohibited.

That meant the State could impose such conditions as it saw fit on the entry of intoxicating beverages into a State. Now, in the case of that provision, which is now a part of the Constitution as the 21st amendment, the Tunney amendment would seek, contrary to the provisions of the Constitution, to forbid States from imposing conditions on the entry of wine into their State.

We do have a State system, not having licensees for the sale of whisky, have a State system which has worked very, very successfully.

I have a telegram here which I ask to be inserted in the RECORD from Gov. George C. Wallace of Alabama, which states that House bill 2096, which is the counterpart of the amendment, will destroy Alabama's system of regulation and control of wines, urging strongest opposition possible to this bill and support of the minority report on this bill.

This has reference to the bill, rather than the amendment, the question is identical.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

MONTGOMERY, ALA.,
September 25, 1973.

Hon. JIM ALLEN,
U.S. Senator, Senate Office Building, Washington, D.C.:

House bill 2096 will destroy Alabama's system of regulation and control of wines. Urge your strongest opposition possible to this bill and your support of the minority report on this bill.

Sincerely yours,

GEORGE C. WALLACE.

Mr. ALLEN. I believe that this is a purely special interest bill, and if there is anybody I do not believe needs any help at this time, it is people engaged in the producing of wine. I do not see why we should take up the time of the Senate in seeking to give the wine producers of New York and California more of the market for this product than they already have.

Mr. CRANSTON. Will the Senator yield?

Mr. ALLEN. Yes, I will yield to the distinguished Senator.

Mr. CRANSTON. I would just like to state that I do not believe this is a special interest amendment because it does not seek to serve the interests of any one winery.

It seeks to assist a billion dollar business that creates 70,000 jobs in California, it provides wine for many people at very proper cost in our country and elsewhere, it contributes to our balance of trade, because the United States now ranks sixth in world production and export sales of wine.

That helps tremendously in terms of our problems of balance of payments.

It seems to me that the Senators opposing this because of one winery in their State are those providing special interest opposition to a general interest amendment.

I do not know whether the Senator from Alabama has any one winery that he is speaking on behalf of, but I know there are Senators who have that situation.

It seems to me they are speaking against the best interests of the consumers of this country generally and the consumers in their States who do not have the free choice at the same price of wine.

Mr. ALLEN. I am glad that the distinguished Senator has made that point because I do not know whether there is a wine-producing concern in Alabama.

Mr. CRANSTON. I made it clear that I do not know, either.

Mr. ALLEN. I do not know whether there is a drop of wine produced in the State of Alabama.

What I do object to is the Senators from California saying to the State of Alabama that they cannot impose conditions on the entry of wine into the State of Alabama, and that is what this amendment would provide.

I yield the floor.

Mr. TUNNEY. Mr. President, there is just one point I would like to make. The Senators from California, in the amendment they have offered, are not trying to tell the State of Alabama which wines can be sold, nor whether wines can even be sold. The State of Alabama would have a perfect right to decide these issues for itself.

The only thing the amendment says is that if Alabama decides to sell wine it should not discriminate against wine that is produced out of State any more than it should be able to discriminate against any other product that is produced out of State.

I might say to the Senator from Alabama that in his State the annual license fee for all manufacturers of alcoholic beverages, including wine, is $1,000 for place of manufacture. But, the annual fee is only $25 for wine manufacturers producing wine in which 75 percent or more of the fruit or produce used in the manufacture of such wine is grown in Alabama.

In other words, an Alabama winemaker utilizing more than 25 percent of fruit grown out of State to make his wine would be discriminated against by being required to pay an annual license fee of $1,000, and that is a very substantial discrimination.

Of course, it is clear that that additional cost is going to be passed on to the consumers of Alabama if they want to drink California wines, New York wines, or any other out-of-State wine. I just do not believe it is fair to the consumers of Alabama any more than it would be fair to the consumers of California for our State to impose a big tax on Alabama cotton.

We have got a great grade of cotton in Alabama and I like cotton shirts. I think it would be an outrage if in New York or California we put a big tax on Alabama cotton.

I do not think Alabama should put a big tax on California wine.

Mr. DOLE. Mr. President, I yield to the Senator from Illinois.

Mr. STEVENSON. I thank the Senator from Kansas.

Mr. President, the Commerce Committee has taken no position on this amendment. I, personally, think it is a sound amendment, and that no State should discriminate in its taxation against out-of-State wines from those States with the soil and sun and all the other conditions which have made New York and California and certain other States the predominant wine producers of the country.

Those State laws tend to give the consumers in the States which have them a choice between a higher priced good wine on the one hand and a local and frequently inferior wine on the other.

This amendment would eliminate that discriminatory treatment which I personally think is unfair to the consumers of the States which have the laws. But I am afraid this amendment may also have the effect of killing the legislation to return the country to standard time.

Under the legislation, the Nation would be scheduled to go back to standard time at the end of October. We have very little time remaining. The transportation industry must be given notice whether the Nation is going to be on daylight saving time or standard time in order to make scheduling changes. Unless this amendment is tabled, it is very possible that we will be unable to give the transportation industry sufficient advance notice.

If, on the other hand, the amendment is tabled, it would be possible to approve this bill (H.R. 16102) and by doing so send it directly to the President where it would be signed, become law, and place the Nation back on standard time on the last Sunday of October.

So, for only that reason, I shall support the motion which I believe will now be made by the Senator from Kansas to table this amendment.

Mr. DOLE. Mr. President.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. DOLE. Mr. President, there are a number of us who have taken no position on the amendment itself offered by the distinguished Senators from California and the distinguished Senators from New York, but it has been indicated by a number of Senators that it hardly belongs on a bill that we believe should have been enacted many weeks ago.

As the distinguished Senator from Illinois just pointed out, and earlier the Senator from Mississippi and others, a number of transportation schedules must reflect the new time change. We have a little more than 30 days in which to achieve that.

It just seems to many of us, who are still undecided on the issue of wine on whether or not this amendment should be adopted, that it should not be attached to this particular bill.

There is great concern in my State, great concern in every State in the country, with reference to year-round daylight savings time.

Some would prefer 6 and 6, some prefer 9 and 3, some prefer 8 and 4, and that is what this bill does.

It is an effort to compromise the different views of different people and different Members of the Senate. So, for the reason appearing to the junior Senator from Kansas, on matters of importance, the important thing today is to act on the amendment to the Emergency Daylight Saving Time Energy Conservation Act of 1973.

I, therefore, move to table the amendment offered by the distinguished Senators from California, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. MANSFIELD (after having voted in the negative). On this vote I have a pair with the Senator from Georgia (Mr. TALMADGE). If he were present and voting, he would vote "yea." If I were permitted to vote, I would vote "nay." I therefore withdraw my vote.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Missouri (Mr. EAGLETON), the Senator from North Carolina (Mr. ERVIN), the Senator from Hawaii (Mr. INOUYE), and the Senator from Georgia (Mr. TALMADGE) are necessarily absent.

I also announce that the Senator from Ohio (Mr. METZENBAUM) and the Senator from Connecticut (Mr. RIBICOFF) are absent because of Jewish holy day.

I further announce that, if present and voting, the Senator from Ohio (Mr. METZENBAUM) would vote "nay."

Mr. GRIFFIN. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Maryland (Mr. BEALL), the Senator from Oklahoma (Mr. BELLMON), the Senator from Tennessee (Mr. BROCK), the Senator from Kentucky (Mr. COOK), the Senator from Colorado (Mr. DOMINICK), the Senator from Arizona (Mr. GOLDWATER), the Senator from Oregon (Mr. HATFIELD), the Senator from New York (Mr. JAVITS), and the Senator from Maryland (Mr. MATHIAS) are necessarily absent.

I further announce that, if present and voting, the Senator from New York (Mr. JAVITS) would vote "nay."

The result was announced—yeas 39, nays 43, as follows:

[No. 426 Leg.]

YEAS—39

Aiken	Fulbright	Proxmire
Allen	Griffin	Randolph
Bartlett	Hansen	Roth
Bennett	Helms	Scott,
Biden	Hollings	William L.
Burdick	Hughes	Sparkman
Byrd,	Johnston	Stafford
Harry F., Jr.	Long	Stennis
Byrd, Robert C.	McClellan	Stevenson
Chiles	McIntyre	Taft
Cotton	Muskie	Thurmond
Dole	Nelson	Tower
Eastland	Nunn	Young
Fong	Pearson	

NAYS—43

Abourezk	Hart	Montoya
Bentsen	Hartke	Moss
Bible	Haskell	Packwood
Brooke	Hathaway	Pastore
Buckley	Hruska	Pell
Cannon	Huddleston	Percy
Case	Humphrey	Schweiker
Church	Jackson	Scott, Hugh
Clark	Kennedy	Stevens
Cranston	Magnuson	Symington
Curtis	McClure	Tunney
Domenici	McGee	Weicker
Fannin	McGovern	Williams
Gravel	Metcalf	
Gurney	Mondale	

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Mansfield, against.

NOT VOTING—17

Baker	Dominick	Javits
Bayh	Eagleton	Mathias
Beall	Ervin	Metzenbaum
Bellmon	Goldwater	Ribicoff
Brock	Hatfield	Talmadge
Cook	Inouye	

So the motion to table was rejected.

Mr. TUNNEY. Mr. President, I do not see any reason why we cannot now have a vote on the merits of this amendment. It is very clear that a majority of the Senators favor eliminating this unfair, discriminatory tax policy as it relates to the Nation's wines. I should like to see the amendment now voted on, as I am sure that everyone who believes that it is important that the Senate have the opportunity to work its will on an amendment feels the same as I do.

I should like to move the adoption of the amendment.

Mr. McCLELLAN. Mr. President, I think it is a little premature to ask for a vote right now. I am sure that there is more involved here than has been mentioned in the very brief discussion prior to this motion to table.

Then, too, Mr. President, my observation, if it is correct, indicates that there are now about 60 Senators present who were not present during the previous discussion, so it is going to take a little time this afternoon to get all of the facts in the RECORD that it should reflect before final judgment is made.

As I said a little earlier——

Mr. HUMPHREY. Will the Senator yield?

Mr. McCLELLAN. Yes.

Mr. HUMPHREY. Does the Senator think also the Senate might be in session tomorrow?

Mr. McCLELLAN. I do not know what the leadership's plans are.

I did say earlier that there are some Senators who are out of town today and, did not expect an amendment to be offered on a daylight savings time bill; it was not anticipated. They are out of town because of other commitments and they would like to be heard. They would like to participate in the debate.

I think that a matter of this consequence, involving the Constitution of the United States, ought to have a little discussion, and they ought to have the opportunity. Some of them are very worried about the Constitution, and I am sure they can make a very able contribution to the RECORD.

Mr. TUNNEY. Will the Senator yield?

Mr. McCLELLAN. Yes.

Mr. TUNNEY. Will the Senator agree to a unanimous-consent request to have a vote on this amendment, let us say, on Monday at 2 o'clock?

Mr. McCLELLAN. I am not prepared to make such agreement without previous consultation. I should not want hastily to make commitments. I see some other Senators here that I know want to discuss it. I have not conferred with them. I do not know whether they want to talk under daylight saving time now or under the new time that is anticipated. I therefore shall not be able to make a commitment for them.

I hope the Senator understands.

Mr. TUNNEY. I completely understand. The Senator also understands that there was an attempt made in the Committee on Finance to get a vote on this particular amendment. This was a bill before the Committee on Finance. The Senator knows that we had a majority of votes in the Committee on Finance but we could not get the measure to a vote.

Mr. McCLELLAN. This Senator does not know that; I am sorry. I have not been so advised.

Mr. TUNNEY. We all believe in democracy, the rights of the minority and the rights of the majority to have their day in court—to have a hearing at the appropriate time and place. This is all that we are asking for, a vote on the merits.

I know that the very distinguished Senator from Arkansas would not want to deny those of us who have far less influence in this body than he does an opportunity just to have a little vote on the merits of the amendment to the bill.

Mr. McCLELLAN. As this Senator and as the Senator from California well know, I cannot accept, of course, his exaggeration about my influence. Everyone here knows that is an exaggeration. But he is very gracious in trying to suggest it.

The Senator well knows that even if I had all the influence that he claims, under the rules of the Senate, I could not block a vote. It takes a whole lot more than one to block a vote, and that is not what I am trying to do at the moment. I am trying to give those Senators who want their day in court, who want to be heard, an opportunity.

I am sure the Senator does not want to deny them that opportunity. I think we agree on the principles of democracy, and I am sure we both subscribe to the rules of the Senate.

The Senator has a right to offer this wine bill on a daylight saving bill; I know that. As I said in my opening remarks, it is true that people drink wine in the daytime, in the daylight, and they drink wine at night in the moonlight. So I do not see anything that is so important about attaching it to a daylight saving time bill.

It does not belong there. It belongs in the due course of proceeding under the rules of the Senate. That is all I am asking for. The Senator says he has not been able to get it out of the Committee on Commerce.

Mr. TUNNEY. The Committee on Finance.

Mr. McCLELLAN. The Committee on Finance, I am sorry. I am not a member of that committee. I want to keep the chairmanship there exercising its will.

When there is an attempt to take a bill to permit a $7 million wine industry to have a monopoly on the wine business throughout the country, and try to impose it on a little daylight saving bill that everyone is interested in, and do that in violation of the Constitution as I interpret it, why, of course I want to delay it until I can get some reinforcements. The Senator from California understands that. He has his forces all marshaled here, sitting ready, and almost took us by surprise when he offered this amendment on this bill.

I know we are going to discuss it. Others will want to discuss it and debate the matter thoroughly. I do not want to take up undue time, other than to insure their right to be heard in our democracy. I hope we can agree on that, and that the Senator will not insist on a vote today. I hope he will not do that.

Mr. TUNNEY. The Senator from Arkansas is so sincere in the way he presents his case. I think that if the Senator from California had a glass of wine under his belt he would probably now have tears in his eyes.

Mr. McCLELLAN. We do not make much wine in Arkansas. As I pointed out earlier, we produce only three bottles out of every 1,000 produced in the United States, and the Senator's State produces 92 and—how many?

Mr. ALLEN. 92.7 percent.

Mr. McCLELLAN. 92.7 percent of all that is produced in the United States. We are the little folks here this afternoon.

Mr. TUNNEY. That is right.

Mr. McCLELLAN. We do not want to have this pushed over on us. Give us a chance to stretch our muscles and fight back a little.

This monopoly should not be perpetuated. It really should not. These little folks should have their chance to develop a business. That is what we are trying to do in Arkansas. It will mean a few jobs, and it will mean that the Constitution of the United States will not be abridged, or an attempt made to abridge it, by an amendment on the daylight saving time bill that would tend to perpetuate that wine monopoly in this country.

Mr. COTTON. Mr. President, will the Senator yield?

Mr. McCLELLAN. I yield.

Mr. COTTON. There are other rights threatened by this amendment than those of States which happen to produce wine. This is not a new issue. It has come up several times during the past 5 years.

There are at least 15 States, of which the State I represent is one, where no wine is allowed to be sold by anyone but the State, in State stores. The Liquor Commission of my State is very apprehensive about this bill, now being offered as an amendment, since they select the liquor that is sold in State stores, and no other brands may be sold. I do not know that they differentiate between California and Arkansas, or anywhere else. They select the popular brands. But they fear that if this amendment should prevail, they might be compelled to stock every brand of wine tendered to it. That could be as many as 40,000 brands of wine, and would practically ruin the whole operation.

Also they are fearful of the effect this could have on revenue from our control State system, which annually results in some $26 million of revenue in New Hampshire which is turned over to the general fund.

That may or may not be so. But, they also feel very strongly that it is in violation of the 21st amendment, and that the several States now have a right to do this. However, I am very sure that

the proponents of the bill will say that such fears are unfounded.

Right now many of us are engaged in the committee of conference on the HEW appropriation bill. A lot of Senators, I am sure, wish to be heard on this proposal, and not just Senators from the wine States.

Mr. McCLELLAN. Mr. President, the Senator from New Hampshire may be correct that it has more far-reaching implications than just to the little wine industry in my State which I represent, which is a struggling, small business.

This proposal involves, as I said earlier and say again, the Constitution of the United States, and it can be very far-reaching. It needs study. It ought not to be put on this bill.

If it stays on the Senate floor here, it can be debated; it can be beaten down. But this method, this procedure, while legal and proper under the rules of the Senate, is not advisable under these circumstances.

Mr. TUNNEY. Mr. President, will the Senator yield?

Mr. McCLELLAN. I yield.

Mr. TUNNEY. I just want to point out to my distinguished friend and colleague from New Hampshire that the House of Representatives committee report recognizes the problem that he has raised. In order to allay the concern many people had that this legislation could be construed to require control States which stock any brand and variety of wine to stock every brand that was tendered to it by a supplier, the committee revised the appropriate section. The revised section clearly does not require a State to list, much less stock, all brands of wine that this country produces. The amendment in no way proscribes any State in promulgating laws and regulations for the sale of alcoholic beverages.

The first point I would like to make to the Senator from Arkansas is that when we talk about the poor, struggling wine industry in certain States, for instance Arkansas, Arkansas has a refinery which is larger than 200——

Mr. McCLELLAN. I believe it has two. Very small.

Mr. TUNNEY. And one of the major——

Mr. McCLELLAN. All in the same location, the same little community, where we grow some grapes.

Mr. TUNNEY. Well at any rate, it is bigger than 237 of the wineries in California. It is not a little winery; it is a fairly good-sized winery.

I can fully understand how the Senator feels. Perhaps, he would like to wait until next week so that we will have an opportunity to have other people present to vote, and that is fine with me.

Would the Senator like to agree to a unanimous-consent request to have a vote at 12 o'clock on Tuesday; would that be satisfactory?

Mr. McCLELLAN. I advised the distinguished Senator from California a while ago that I am not in a position to make commitments for others who are interested, and I could not make or grant a consent request for them. I know they want to be heard. As I said, now, whether they want to be heard until Tuesday or Wednesday I am not advised at the moment.

Mr. TUNNEY. The only thing I want the farmers of my State to know is that it is not the Senators from California who are delaying this daylight saving bill. The Senators from California would like to vote on the daylight saving bill this afternoon. This Senator is prepared to vote Monday, Tuesday, Wednesday, or any time that we can get a unanimous consent request for a vote from those who apparently do not want a vote on this very important amendment.

Mr. McCLELLAN. I would be glad to certify with the Senator to the farmers of his State and with the farmers of everyone else's State that this daylight saving bill would have passed this afternoon except for his amendment. [Laughter.] I would be glad to do that.

Mr. PASTORE. Mr. President, will the Senator from California yield to me?

Mr. TUNNEY. Yes; I yield to the Senator from Rhode Island.

Mr. PASTORE. There has been a lot of rhetoric and a lot of debate, some rather facetious and some very, very serious. Let us get serious for the moment. I mean, what is the Senator's complaint, that he has been unable to have a hearing on his bill in the Finance Committee?

Mr. TUNNEY. No. We have had a hearing. We cannot get a vote because there are some Senators who feel that they would like to talk rather than let the Senator act.

Mr. PASTORE. The Senator says they have not been able to have a vote; does he mean a vote in the Finance Committee?

Mr. TUNNEY. In the Finance Committee.

This bill passed the House of Representatives. But over in the House of Representatives it was passed out of the Interstate and Foreign Commerce Committee. So in the House of Representatives it is a Commerce Committee bill.

If it were attached to this bill it could go to conference and it could be accepted. At that point, it could be passed relatively shortly, hopefully within the next few days, because the amendment would not represent a germaneness problem for the House.

Mr. PASTORE. Well now, as I size up the situation on the floor of the Senate, here it is 3:30 in the afternoon. It looks to me like we are not going to have a vote on this amendment in which the Senator from California is interested and, in the meantime, it is going to have the effect of killing this daylight saving bill.

I was wondering if there is any compromise that we can reach without insisting upon a vote on a day certain.

Mr. TUNNEY. I would be delighted. The Senator from California would be pleased, to have——

Mr. PASTORE. Is there any way that the Senator can draw up his wine bill and send it over to the Commerce Committee of the Senate? I am on that committee and I would take a good look at these intoxicating liquors.

Mr. TUNNEY. Well, the problem is, unfortunately, that the Parliamentarian has rules in the Senate that this particular type of legislation must be referred to the Finance Committee.

Mr. PASTORE. Not if the Senator dressed it up in interstate commerce. There is a way of drawing an amendment so that it will go to the Commerce Committee. I will help the Senator do that.

Mr. TUNNEY. I really am very appreciative of my very dear friend, the Senator from Rhode Island, for offering that as a suggestion, and I wish I could accept it.

This bill has been pending for 3 years now, and it just seems to me that the Senate ought to have an opportunity to voice its opinion.

Now, there are only a very few Senators who want to talk about the legislation, who want to talk about it perhaps indefinitely. But I think the majority of Senators ought to be able to have a chance to work their will, and if we remove this amendment from the bill, there is no chance of getting it through on any other bill because the same kind of a filibuster is going to be present.

Mr. PASTORE. I know, but are we not actually getting nowhere at all? After all, the daylight saving bill is important. I did support the Senator on the first vote on the motion to lay on the table. There are other Senators here who are beginning to reconsider that vote in view of the fact that here we are stalemated, and we are dealing in priorities. The fact still remains there are a lot of people in this country who want something done about daylight saving time, and that is essential and it is important, and I do not think we ought to frustrate ourselves.

Mr. TUNNEY. Yes; I understand that.

Mr. PASTORE. Would I hurt the Senator's feelings if I move again to lay it on the table?

Mr. TUNNEY. I would like to discuss it with the Senator before he makes that motion.

The thing that concerns me——

Mr. PASTORE. I do not want to hurt the Senator's feelings and that is why I asked if I would hurt his feelings. I do not want to drive him to wine.

[Laughter.]

Mr. TUNNEY. The thing that concerns me is here we have had an opportunity for the Senate to express itself. It is clear to me also from what the Senators told me privately when they voted to table that they were for the legislation but they were voting to table because they wanted to get the daylight saving bill through. A very substantial majority of Senators want this legislation to pass—probably more than two-thirds; although that is questionable, but it is a very substantial majority—and the will of the majority is being frustrated by a very small minority.

I do not know why the suggestion is not made to those who are filibustering that they might want to see the daylight saving bill passed and that they withdraw.

Mr. McCLELLAN. Mr. President, do I have the floor? If I have the floor, I would like to interrupt the Senator. I think it is a little premature to declare

a filibuster here within 2 hours after the amendment was brought up.

I said others wanted to talk. I cannot make a commitment for them, whether they want to talk longer or shorter, but I just make the point that this is hardly a filibuster yet.

I would say we wish to have an opportunity for free and open debate on the merits of the amendment, and also on the inadvisability of latching on to this daylight saving bill.

Mr. CHILES. Mr. President, will the Senator yield?

Mr. McCLELLAN. It is delaying the progress of the bill, that is true. I do not mind taking my share of the responsibility for that. But the initial responsibility for delay is the amendment itself, the sponsored amendment.

I yield to the distinguished Senator from Florida (Mr. CHILES).

Mr. CHILES. If the discussion went on until Christmas there probably would be a filibuster by that time, would there not?

Mr. McCLELLAN. It would what?

Mr. CHILES. If it went on to Christmas, it would probably be a filibuster.

Mr. McCLELLAN. Or even Christmas Eve. I would not insist that it go on to Christmas day. But the point is when one brings up an amendment of this nature that is not germane to the bill, altogether foreign to the subject matter of the bill that is under consideration, I do not think it is a filibuster if we talk about it for an hour or two.

Mr. President, I still have the floor, and if no one else wants to ask me any questions, I would be glad to proceed uninterruptedly for a minute or two.

In my earlier remarks before the motion to lay on the table, I had made reference to the Constitution or what it provides and, Mr. President, I said that this bill had been pending—I think the author of the amendment now says it has been pending—for 3 years. I did not know it had been pending that long. But I did appear before the Committee on Finance on January 21 of this year and testified briefly in opposition to this bill, the bill with which this amendment is identical.

I pointed out at that time, Mr. President, that there are limits prescribed by the Constitution to the powers which Congress can exercise. This amendment would seek to nullify the powers that are clearly granted to the States by the 21st amendment to the Constitution.

Mr. President, the constitutional provision in the amendment to which I allude states:

> The transportation or importation into any State, Territory, or possession of the United States for delivery or use therein of intoxicating liquors, in violation of the laws thereof, is hereby prohibited.

I emphasize, Mr. President, that the language could not be clearer, it could not be more definite, it needs no interpretation. It is self-interpretative. It says what it means and it means what it says.

This amendment, the amendment to this bill, would attempt to tamper with, if it could be enacted and made to pass as a part of the pending daylight saving bill, would be an attempt, Mr. President, to circumvent or to abrogate, this provision of the Constitution.

The Supreme Court has consistently held—and, Mr. President, during the course of this debate I think it would be well for these decisions to be cited, and certainly important rulings that are recorded therein be incorporated, in the RECORD of this debate, and that I shall do if other Senators do not do it before I reach that part of my discussion.

But in a series of interpretative decisions rendered shortly after the ratification of the constitutional amendment to which I have referred, the Supreme Court said that States have the authority and the right under this 21st amendment to adopt legislation discriminating against intoxicating liquors imported from other States in favor of those from the home State.

To that extent, Mr President, the 21st amendment amends or repeals the commerce clause amendment to the extent that it makes this exception to it, because the States are given the absolute power to discriminate against liquors not produced in that State, and the Supreme Court has so held.

The Court has also said that such discrimination is not limited by the commerce clause.

It has stated that, Mr. President, specifically, and if the Supreme Court says again what it said before, unless it overrules itself on decision, unless it changes the law of the land again, it has said that the law of the land is that the State has a right to discriminate against liquors produced outside of that State and brought into that State if that State chooses to do so in favor of the liquors produced within the State.

I do not know whether the Supreme Court, if this amendment should be adopted and the case go to the Supreme Court, would change its mind or not, but we have to assume for the purpose of considering legislation, as to what is constitutional and what is not, that the Supreme Court having spoken on the issue once will say next time what it said the first time.

If it does, Mr. President, we are engaged here in a great deal of futility and a waste of time of the Senate in considering this amendment, because if it is enacted, this amendment should be adopted and tested in the courts and the court should hold what it has held heretofore, all of the effort here to circumvent the Constitution or to change it will be futile and in vain.

I think when we suggest a filibuster, we might consider that, too, because that will involve a lot of expense, a lot of delay, someone will have to take it to the Court and that will be as bad as a filibuster, and worse as far as the proponents of this amendment getting any relief for their States.

Now I kind of sympathize with these States that are producing wine, one of them producing 82 percent and the other 10 percent of all of the wine in the country. They need the profit, apparently, the little bit of profit that States like mine may be making out of the wine industry, trying to build up a wine industry, the profit that my producers are making on three bottles that they sell or produce out of every 1,000 produced in the United States.

I would not want it charged that anyone is greedy, that these big wine companies are grasping, without cause. Mr. President, may be they need this little bit of profit, but so do our people who are struggling to build a little industry.

We produce pretty good grapes. We may not have all the techniques yet necessary to fully compete with these rich and powerful producers of wine. They can hire experts and make experiments, they have the money to do that which the little people of my State cannot do right now, but it seems to me with those advantages that they ought to be satisfied, Mr. President, and not insist that they have a greater competitive advantage by trying to abrogate the laws of the States like mine and like 10 others that are trying to build a little wine industry of their own.

The case of State Board of Equalization of California *v.* Young's Market Company was decided in 1936, it is in 299 U.S. Report, page 59.

In that case, it was argued that it would be a violation of the commerce clause—Mr. President, this confirms what I have already said—that it would be a violation of the commerce clause and of the equal protection clause for a State to require a fee of persons importing beer from outside the State.

In this case, the State was upheld, noting that such discrimination would have violated the commerce clause before the adoption of the 21st amendment.

Mr. President, prior to the adoption of the 21st amendment, the present statutes of my State would have been unconstitutional, but they are not unconstitutional since the adoption of the 21st amendment.

Noting that such discrimination would have violated the commerce clause before adoption of the 21st amendment, the Court, speaking through Mr. Justice Brandeis, held that since the adoption of the amendment—the 21st amendment—a State was no longer required, and I quote,

> To let imported liquors compete with the domestic on equal terms.

Now, Mr. President, that is what the Supreme Court said. They were talking about liquors. We are talking about wines here. We are talking about liquors, the same thing that was before the Court in that case, the identical product, Mr. President.

Then the Court went on and said:

> To say that would involve not a construction of the Amendment, but a rewriting of it.

Mr. President, that is what the Court said, that to place such a construction on the amendment would be rewriting it. This pending amendment is clearly an attempt here to legislatively rewrite amendment No. 21 to the Constitution of the United States. The Court said that it cannot be done.

Mr. President, to adopt this amendment would be to attempt to do indirectly what can only be done directly by rewriting the 21st amendment to the Constitution. In other words, Mr. President, to do what this amendment attempts to do, and to make it legal, we would have to rewrite the 21st amendment to the Constitution. The Senate and the Con-

gress are not empowered to do that by legislation. Procedures are provided in the Constitution as to how this amendment could be changed, how it could be rewritten. But the method attempted here, Mr. President, is not the approved or constitutional method to change this amendment in the Constitution.

The wording of the amendment is so clear, and the Supreme Court's interpretation thereof sustains the fact, that the States have the power under the Constitution to impose the taxes in question. That means, Mr. President, that this attempt by the big, giant wine producers in this country to grasp and take by this process the little bit of wine, Mr. President—the other 7 percent—from the other 10 States producing wine in this country is not warranted. It ought to be rejected out of hand. Under the Constitution, it cannot be imposed in the fashion here attempted.

Apparently the Department of Justice agrees with the views that I have expressed. In commenting on this legislation, the Department has stated that, "If the Congress were to enact H.R. 2096"—that is the amendment now before us. It is identical with H.R. 2096. Whatever the Department of Justice said about H.R. 2096 would apply identically to this amendment.

The State of Arkansas has chosen, under the powers granted to it by this amendment to the Constitution to protect its own small wine industry. The impact of Arkansas wine on the national market is minimal. You could take all of the wine produced in al' of the United States, except in the State of California and the State of New York, all of that wine, 7 percent of the total, and I think that could accurately be described as minimal.

Mr. MANSFIELD. Will the Senator yield to me without losing his right to the floor?

Mr. McCLELLAN. I am glad to yield.

UNANIMOUS-CONSENT AGREEMENT

Mr. MANSFIELD. Mr. President, I understand that it is not possible today to enter another motion to table the amendment. It is possible, though, for someone who voted in the negative to move to reconsider, and that motion would be subject to a tabling motion. In talking with various interested parties, I would like at this time to raise the following postulate: That the pending business be laid aside until next Tuesday or Wednesday—and I do this reluctantly because of the need for a uniform daylight saving bill throughout the country at this time—with the understanding that at that time, when it is called up, another motion to table will be offered.

Would the Senator give that proposal some consideration?

Mr. McCLELLAN. I will give it some consideration.

I would like to propound a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. McCLELLAN. If I understand the distinguished leader's suggestion correctly, it is that we simply set aside the pending business without prejudice to anyone's rights, or to any right to a rule of the Senate, to set it aside until next Tuesday or Wednesday and not bring this up again until that time.

At that time, it will have, as I understand, the same status before the Senate, and every Senator will have every right then that he has at this hour, at this time, with respect to discussing the amendment or making any motions thereon, or offering any amendments thereto.

Am I correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. McCLELLAN. There would be no sacrificing of rights or jeopardizing of rights in any fashion whatsoever, if we agree to this as a unanimous consent agreement.

Mr. MANSFIELD. None whatsoever.

Mr. McCLELLAN. Am I correct? I would like to have the Chair rule.

The PRESIDING OFFICER. The Chair is in a little bit of doubt as to the question propounded by the Senator from Arkansas. Does he mean that he would have the floor when he said the status would be the same? Then I would have to ask the Senator from Montana if that is what he meant.

Mr. MANSFIELD. Absolutely.

Mr. McCLELLAN. I understand I would have the floor, and no right under the rules of the Senate in any respect would be placed in jeopardy or interfered with by reason of entering into such an agreement.

The PRESIDING OFFICER. The Senator is correct in the way he stated it.

Is there objection to the unanimous consent request?

Mr. McCLELLAN. Reserving the right to object——

Mr. MANSFIELD. May I say this, that it is my understanding that if this is agreed to, a motion to table will be made almost immediately after the bill is called up.

Mr. McCLELLAN. It would be in order, but if I have the floor I would assume I would have to yield for that purpose.

Mr. MANSFIELD. Yes, indeed.

Mr. McCLELLAN. Am I correct?

The PRESIDING OFFICER. The Senator from Arkansas is correct.

Mr. THURMOND. Will the distinguished majority leader yield?

Mr. MANSFIELD. I yield.

Mr. THURMOND. Mr. President, I would like to inquire if the distinguished Senator from Arkansas, for any reason, does not resume the floor at that time, could the Senator from South Carolina be notified before any action is taken so he would be present in order to protect his rights on the floor?

Mr. MANSFIELD. Absolutely.

Mr. McCLELLAN. I suggest to the distinguished leader that he add to that request that a quorum call be placed and a quorum obtained before any action is taken on the bill. I think that would protect everyone.

Mr. MANSFIELD. I make that request, too.

Mr. McCLELLAN. Let that be included.

The PRESIDING OFFICER. That request will be included.

Is there any objection to the request of the Senator from Montana, including the right of the Senator from Arkansas to the floor at the time the proceedings start on this bill on Tuesday or Wednesday?

Mr. THURMOND. On that basis, I have no objection.

Mr. McCLELLAN. Would the distinguished leader let us know which day as soon as he can?

Mr. MANSFIELD. Yes. I asked it for Tuesday or Wednesday so that the leadership could take advantage of the possibilities of an appropriate time.

Mr. McCLELLAN. That is the way I understood it.

The PRESIDING OFFICER. Is there objection?

Mr. TUNNEY. Mr. President, reserving the right to object—and I shall not object—I think this represents a good compromise of interests, and I would hope that we could have a vote as soon as possible on Tuesday.

I have no objection.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. CRANSTON. Mr. President, I should like to respond very briefly to one point that was made by the Senator from Arkansas, if it is not out of order.

The Senator, I believe, said that the Supreme Court has held that the States have an absolute right under the 21st amendment to discriminate.

I believe that is not the case.

The Supreme Court has ruled that the export-import clause of the Constitution limits the power of the State to regulate alcoholic beverages under the 21st amendment.

I point out that under the court's decision in *Department of Revenue* v. *James B. Beam Distilling Co.*, 377 U.S. 341 (1964), discriminatory taxes may amount to a tax on imports when levied against foreign wine.

Thus, we may have the situation in which French wine cannot be taxed in a discriminatory fashion, but California, New York, and Arkansas wine can be so taxed.

Arkansas wine is very good wine. About 25 percent of its business is now in exports to other States. As it develops further business, it is quite possible that it will find itself subject to the discriminatory laws that the Senators from California and many others are objecting to; and we might then find the Senators from Arkansas joining us in opposition to such laws by States.

QUORUM CALL

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. BUCKLEY). The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ENROLLED BILL AND JOINT RESOLUTION PRESENTED

The Secretary of the Senate reported that today, September 26, 1974, he presented to the President of the United States the following enrolled bill and joint resolution:

S. 3320. An act to extend the appropriation authorization for reporting of weather modification activities; and

S.J. Res. 244. A joint resolution to extend the termination date of the Export-Import Bank.

ORDER FOR ADJOURNMENT TO 11 A.M. ON MONDAY NEXT

Mr. MANSFIELD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 11 o'clock on Monday morning next.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER TO SET ASIDE S. 3394, FOREIGN ASSISTANCE ACT OF 1974, ON MONDAY NEXT

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the unfinished business, S. 3394, a bill to amend the Foreign Assistance Act of 1974, be set aside for the duration of the discussion on House Joint Resolution 1131, a joint resolution making further continuing appropriations for the fiscal year 1975, and for other purposes, and other legislative matters which will be considered on Monday next.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MANSFIELD. It is the intention to lay before the Senate the continuing resolution, after all special orders have been fulfilled, the joint leadership has been recognized, and the morning hour has been concluded.

Mr. McCLELLAN. That will be next Monday?

Mr. MANSFIELD. Next Monday.

Mr. McCLELLAN. And the Senate is convening at 11 a.m.?

Mr. MANSFIELD. That is correct.

Mr. McCLELLAN. Following routine speeches and the recognition of the leaders, this will be the pending business?

Mr. MANSFIELD. I would hazard a guess that it would be about 11:30.

Mr. McCLELLAN. I have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR ROLLCALL VOTES TO OCCUR AFTER 4 P.M. ON MONDAY, SEPTEMBER 30, 1974

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that if any rollcall votes are ordered on Monday, prior to 4 p.m., they not occur before 4 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. TOWER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

APPOINTMENT OF GEN. FREDERICK C. WEYAND AS ARMY CHIEF OF STAFF

Mr. THURMOND. Mr. President, today the announcement was made of the appointment of a new Army Chief of Staff, Gen. Frederick C. Weyand. I just want to say that I have known General Weyand for a number of years. He was here as Chief of Legislative Liaison before he went to Vietnam, and I cannot recall an officer who has worked with Congress who has been more astute in his relationships with Members of Congress and accommodating Members of Congress in trying to do everything he could to build good relations with Congress for the Army.

General Weyand has a very fine record. He served ably and capably in Vietnam. He became the top commander over there after General Abrams left, and he is regarded in military circles as a very fine general. He is also regarded by the people who know him as an outstanding citizen, a scholar, and a gentleman.

I feel that the Army, the Defense Department, and the President have made a wise choice in appointing Gen. Fred Weyand as the new Chief of Staff of the Army. I congratulate General Weyand upon this appointment, and I congratulate our Government upon having a man like him to serve in this important capacity.

QUORUM CALL

Mr. TOWER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR THE RECOGNITION OF SENATOR GRIFFIN AND SENATOR ROBERT C. BYRD AND FOR THE TRANSACTION OF ROUTINE MORNING BUSINESS ON MONDAY, SEPTEMBER 30, 1974

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on Monday, after the two leaders or their designees have been recognized under the standing order, Mr. GRIFFIN and Mr. ROBERT C. BYRD be recognized, each for not to exceed 10 minutes, and in that order; after which there be a brief period for the transaction of routine morning business of not to exceed 15 minutes, with statements limited therein to 5 minutes each.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

UNANIMOUS-CONSENT AGREEMENT—HOUSE JOINT RESOLUTION 1131, MAKING FURTHER CONTINUING APROPRIATIONS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent, that at the conclusion of routine morning business on Monday, the Senate proceed to the consideration of House Joint Resolution 1131, a joint resolution making further continuing appropriations.

The PRESIDING OFFICER. Is there objection? The Chair hear none, and it is so ordered.

NORTH CENTRAL EDUCATIONAL TELEVISION, INC.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 1119, S. 2752.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (S. 2752) for the relief of North Central Educational Television, Incorporated.

The PRESIDING OFFICER. Is there objection to the request for the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on the Judiciary, with an amendment on page 1, in line 6, strike out "$67,081.86" and insert in lieu thereof "$26,231.92", so as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury is authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to North Central Educational Television, Incorporated, the sum of $26,231.92, in full settlement of all its claims against the United States for reimbursement of additional expenses incurred as the result of administrative error by personnel of the Federal Communications Commission in connection with that corporation's application for a television station.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 93-1175), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

EXCERPT

PURPOSE

The purpose of the proposed legislation, as amended, is to authorize and direct the Secretary of the Treasury to pay, out of any money in the Treasury not otherwise appropriated, to North Central Educational Television, Incorporated, the sum of $26,231.92, in full settlement of all its claims against the United States for reimbursement of expenses incurred as the result of administrative error by personnel of the Federal Communications Commission in connection with that corporation's application for a television station.

STATEMENT

In November, 1971, North Central Educational Television, Inc., a non-profit educational television network, incorporated in North Dakota, filed an application with the Federal Communications Commission for an educational television station to operate on

Channel 2, assigned to Grand Forks, North Dakota.

North Central Educational Television is permittee of Station KFME–TV operated out of Fargo, North Dakota, and this application for expansion of its coverage was the result of many years of fund raising at the local level along with negotiations with the Department of Health, Education and Welfare for financial assistance in the amount of $305,163 for construction of the new satellite station at Grand Forks, North Dakota. Approval of the application by the Federal Communications Commission was contingent upon successful negotiation with the Department of Health, Education and Welfare for the grant.

North Central's application was processed by the Federal Communications Commission and on January 6, 1972, was accepted as meeting the minimum mileage separation requirements both as to domestic and foreign (Canadian) channel allocations and station assignments. A further staff engineering study by the FCC revealed conflicting data and, after notification of this was forwarded to North Central, a revised application was submitted on February 11, 1972.

On March 22, 1972, the modified proposal was considered technically acceptable to the FCC engineering staff and was turned over to legal and accounting personnel for further processing. Although the application was fully processed by April, 1972, it was placed in a pending file until the Commission received further financial data, specifically, notification that the grant application had been approved by the Department of Health, Education and Welfare.

During this period, the Canadian Government advised the Federal Communications Commission of its proposal to allocate Channel 2 to Brandon, Manitoba, pursuant to the Canadian-USA Television Agreement of 1952. This proposal was reviewed and accepted by the Broadcast Bureau staff of the FCC, and the Canadian Department of Communications was notified on June 14, 1972, that the Commission had no objection to their proposal for Brandon. Contained in the Canadian Government's proposal to the FCC was a clear specification that any future assignment on Channel 2 in the United States would be no more than 190 miles from Grand Forks in order to maintain the minimum required co-channel spacing from Brandon, Manitoba.

The Television Applications Branch at the Commission, which had already processed the North Central application, failed to review that application when giving its approval to the Brandon proposal. The proposed Grand Forks transmitter site was only 147 miles from the Brandon reference point. Had that been noted, the Canadian proposal would not have been considered acceptable to the Commission.

In early 1973, North Central filed additional financial data with the FCC, followed, on April 16, 1973, by an approval of their application for funding by the Department of Health, Education and Welfare. The Commission then granted a construction permit to North Central on May 3, 1973. On June 13, 1973, the Commission notified the Canadian Government of the Grand Forks Channel 2 allocation, and by letter dated June 29, 1973, the Canadian Government registered its objection on the basis of the 43 mile short-spacing to the Brandon allocation. North Central was advised of this immediately by the Commission and it was recommended that they suspend construction, which had been underway for approximately two months, while the conflict was under study.

It should be noted that the grant from the Department of Health, Education and Welfare to North Central was predicated upon the construction of an antenna, at no additional charge, on an existing 1,461-foot structure belong to Station WDAZ–TV, Devils Lake, North Dakota. In the original construction permit, North Central was granted authority to operate on Channel 2 with a maximum visual effective radiated power of 100 kilowatts utilizing an omnidirectional (all directions) antenna system with an antenna height of 1,330 feet above average terrain. This was in conformance with their plans to use the antenna structure at Devils Lake.

In the negotiations with Canada, following the discovery of the FCC's error, an agreement was reached whereby North Central could operate with 100 kilowatts, as proposed, but the effective radiated power in the direction of Brandon would be restricted to 40 kilowatts for an antenna height of 1,330 feet above average terrain.

Inasmuch as North Central was limited in its choice of antenna height, being dependent upon the WDAZ–TV structure, they modified their application, upon being advised of the Canadian-FCC agreement, to include the use of a directional antenna system with a maximum effective radiated power of 100 kilowatts, with maximum radiation toward Brandon to be restricted to 30.9 kilowatts, and an antenna height above average terrain of 1,340 feet.

This modified proposal was subsequently approved by the Federal Communications Commission.

FCC ACKNOWLEDGES RESPONSIBILITY AND LIABILITY

The Federal Communications Commission has accepted full responsibility for the error as a result of its failure to cross-reference the two Channel 2 proposals. The Commission, in a letter to Senator Quentin N. Burdick, dated August 6, 1973, signed by Chairman Dean Burch, said that "the Federal Communications Commission committed an egregious 'goof.'" In further correspondence from the Commission, addressed to Senator James O. Eastland, Chairman of the Judiciary Committee, and dated March 7, 1974, Chairman Burch wrote, "In short, this was a plain staff error, without the saving grace of being attributable to an error of judgment. It was simply a failure to do a thorough job under applicable Commission procedures."

The FCC also indicated in its letter of March 7, 1974, that it would not oppose a private relief bill for the payment of out-of-pocket losses directly arising as the result of this error.

DETERMINATION OF DAMAGES

The original construction permit to North Central allowed for an omnidirectional antenna system, which, after the Canadian-FCC agreement, had to be modified to a directional antenna system. North Central had accepted the bid of Harris-Intertype Corporation, Contract No. 7305–085A, for the original television transmitting antenna, a Gates Model TY–404, which was unit priced at $40,000.00. The modified antenna system, a Gates Model TY–404–A, is unit priced at $56,000.00, for an increased cost to North Central TV of $16,000.00. (Copies of Harris-Intertype Corporation Proposal and Acceptance are on file with the Committee.)

Under the agreement between Canada and the FCC, North Central is required to add precise frequency control to their transmitter. This control will reduce the problem of interference in the fringe area between the two stations operating on the same channel. Inasmuch as the Canadian station is not on the air at this time, precise frequency control has not been purchased and installed, however, this is expected to be completed at the time the Canadian station becomes operational. A quoted price from the Harris-Intertype Corporation lists the price of precise frequency control equipment at $5,182.50. North Central has estimated shipping and installation costs at $125.00 for a total of $5,307.50 increased cost due to the necessity of adding this equipment. (On file with the Committee is a letter from Marmet Professional Corporation, attorneys representing North Central Educational Television, Inc., to the Secretary, Federal Communications Commission, confirming North Central's willingness to add precise frequency control equipment, and an invoice from Harris-Intertype Corporation to KFME–TV listing the price of the precise frequency control equipment is also filed with the Committee.)

Further costs incurred by North Central during negotiations with the Commission as a result of the modification of the original application required when the error by the FCC was discovered include: attorney's fees, directly related to resolving the dispute over Channel 2 and the license modification, at $1,500 (copies of Marmet Professional Corporation billing, dated October 11, 1973, for services to North Central Educational Television, Inc., including service itemizations, are on file with the Committee); travel expenses incurred by the General Manager of North Central Educational Television, Inc., for a trip to Washington, D.C., to clarify and expedite a solution to the problem arising from the FCC error, at $375.28 (copies of invoices are on file with the Committee); and telephone expenses for calls directly related to the required modifications, at $106.14 (copies of telephone billings to North Central Educational Television, Inc., are on file with the Committee).

Finally, North Central suffered lost net revenue directly as a consequence of the FCC error. This lost revenue has been calculated as the difference between the expected revenue from signed school contracts to furnish educational programs during the 1973–74 school year (copies of school contracts on file with Committee) and the estimated operating expenses for the period from October 15, 1973 (the planned on-air date), and September 15, 1974 (the date on which new school contracts would begin generating revenue). Signed school contracts were in the amount of $26,514. Since the on-air date prior to the FCC error was set at mid-October, North Central anticipated 8/9's of that amount, or $23,568, as income from school contracts.[1]

The annual projected operating costs of Channel 2 are estimated to be $22,500 (estimates on file with FCC). Since the school contracts constituted the major source of revenue to the station, the Committee determined the proper period for determining net lost revenue would be the 11 month period from October 1973, to September 1974, when new school contracts would begin. The operating expenses for this 11 month period would be $20,625 (11/12 of $22,500). Thus, the net revenue lost was calculated as $23,568 minus $20,625, or the sum of $2,943.

CLAIMED ITEMS DENIED

Several additional items constituting items claimed in the original bill have been deleted by the Committee. These include:

Staff Salary Costs at 1,658.75 for period covering negotiations with FCC. This item

[1] Although it would have been possible to undertake winter construction at an additional cost of approximately $5,000 and to complete construction by February of 1974, the final portions of the educational programs would have been of little value to the schools at that stage of the school year. Thus, the amount of damages would not have been different even had North Central pushed to complete construction at the earliest possible date.

represented an allocation of existing salaries for personnel of the parent station. It was denied because it did not represent an out-of-pocket loss.

Winter Construction Fees at $5,600.00, estimated 10-day delay at rate of $560 per day. The station determined to delay construction until the spring of 1974, thus it incurred no loss for winter construction fees.

Lost Revenue: Contributions at $7,000.00, estimated voluntary contributions from listeners and community businesses and groups during the minimum 4-month delay period caused by the error. The estimate was based on a comparison with the parent station's $60,000 in donations in 1972. This item was considered to be too speculative. In addition, it represented *voluntary* contributions, and the Committee questioned whether it should be considered an appropriate element of contractual loss.

Lost Revenue: Salary at $4,500.00, representing 50% of the salary of one of the parent station's producers which the University of North Dakota had agreed to pay. Because the station did not go on the air as scheduled, it lost that salary assistance. The Committee denied this claim because the producer did not have to devote a portion of his time to the satellite station, his services were thus fully available to the parent station and no out-of-pocket loss occurred.

RECOMMENDATION

North Central Educational Television, Inc., has suffered losses directly because of an error of the Federal Communications Commission which has been acknowledged by the Commission. In agreement with the recommendation of the Federal Communications Commission, the Senate Committee on the Judiciary considers this bill to be meritorious and believes that the station should be reimbursed for its direct losses. The Committee, therefore, recommends that the bill, as amended, do pass.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. TOWER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, on Monday the Senate will convene at the hour of 11 a.m. After the two leaders or their designees have been recognized under the standing order, Mr. GRIFFIN will be recognized for not to exceed 10 minutes, after which Mr. ROBERT C. BYRD will be recognized for not to exceed 10 minutes; after which there will be a period for the transaction of routine morning business of not to exceed 15 minutes, with statements limited therein to 5 minutes; at the conclusion of which the Senate will proceed to the consideration of Calendar Order No. 1118, House Joint Resolution 1131, a joint resolution making further continuing appropriations for the fiscal year 1975, and for other purposes.

Rollcall votes may occur in relation thereto. No rollcall votes will occur on Monday prior to the hour of 4 p.m. in accordance with the consent order previously entered.

At 4 p.m. on Monday the Senate will vote on the adoption of the consular convention with the Czechoslovak Socialist Republic. That will be a rollcall vote.

Among other measures which are eligible to be called up next week, but not necessarily in the order listed, are the following: S. 2022, a bill to provide increased employment opportunity by executive agencies of the U.S. Government for persons unable to work standard working hours; H.R. 16102, an act to amend the Emergency Daylight Saving Time Energy Conservation Act of 1973; S. 1988, which has to do with the jurisdiction of the United States over certain ocean areas; S. 3378, the bill of rights for the disabled; H.R. 13370, an act to suspend until June 30, 1976, duties on certain minerals; H.R. 10337, the measure authorizing the partition of the surface rights in the joint use area of the 1882 Executive Order Hopi Reservation; S. 4016, which has been reported out of the Committee on Government Operations, a bill to protect and preserve certain tape recordings, and other materials.

Mr. TOWER. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. If the Senator will allow me to complete my statement, I shall be happy to yield.

Senate Joint Resolution 240, requiring full public disclosure of the facts connected with and relating to so-called Watergate matters; Senate Resolution 399, expressing the sense of the Senate that a full public disclosure be made of certain facts in connection with Watergate matters; and a bill, S. 2106, which I introduced and which was reported by the Committee on the Judiciary yesterday, which relates to the tenure of office for the Director of the Federal Bureau of Investigation.

Conference reports may be called up at any time, of course, they being privileged matters. Other calendar measures for action may also be called up.

I am glad to yield.

Mr. TOWER. If the Senator would yield, I am given to understand that these are probable in terms of being taken up, and this is not a scheduling process we are going through.

Mr. ROBERT C. BYRD. The Senator is correct.

Mr. TOWER. And we would still be protected in putting a hold on any of these?

Mr. ROBERT C. BYRD. The Senator is correct. The measures will not be called up necessarily in the order listed.

Mr. TOWER. These are simply things the Senator anticipates may be called up.

Mr. ROBERT C. BYRD. Yes. The mere enumeration of these measures does not guarantee that all of them will come up next week.

Mr. TOWER. I thank the Senator from West Virginia.

Mr. ROBERT C. BYRD. I thank the Senator.

ADJOURNMENT TO 11 A.M. MONDAY, SEPTEMBER 30, 1974

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in adjournment until the hour of 11 o'clock a.m. on Monday next.

The motion was agreed to; and at 4:36 p.m. the Senate adjourned until Monday, September 30, 1974, at 11 a.m.

NOMINATIONS

Executive nominations received by the Senate September 26, 1974:

FEDERAL RESERVE SYSTEM

Philip Edward Coldwell, of Texas, to be a Member of the Board of Governors of the Federal Reserve System for the unexpired term of 14 years from February 1, 1966, vice Andrew F. Brimmer, resigned.

NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE

The following-named persons to be Members of the National Commission on Libraries and Information Science for terms expiring July 19, 1979:

Joseph Becker, of California. (Reappointment)

Carlos A. Cuadra, of California. (Reappointment)

John E. Velde, Jr., of Illinois. (Reappointment)

IN THE ARMY

Gen. Frederick Carlton Weyand, xxx-xx-x... xxx-... Army of the United States (major general, U.S. Army), for appointment as Chief of Staff, U.S. Army, under the provisions of title 10, United States Code, section 3034.

NATO COUNCIL REPRESENTATIVE

David K. E. Bruce, of Virginia, to be the U.S. Permanent Representative on the Council of the North Atlantic Treaty Organization, with the rank and status of Ambassador Extraordinary and Plenipotentiary.

CONFIRMATIONS

Executive nominations confirmed by the Senate September 26, 1974:

FEDERAL TRADE COMMISSION

Paul Rand Dixon, of Tennessee, to be a Federal Trade Commissioner for the term of 7 years from September 26, 1974.

(The above nomination was approved subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

IN THE NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

National Oceanic and Atmospheric Administration nominations beginning Theodore Wyzewski, to be commander and ending Lewis W. Walker, to be ensign, which nominations were received by the Senate and appeared in the Congressional Record on September 17, 1974.